



2026:AHC-LKO:24168

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 9282 of 2022

Fatima Begum and 2 others

.....Applicant(s)

Versus

The State of U.P. Thru.Addl. Chief Secy. Home
and another

.....Opposite
Party(s)

Counsel for Applicant(s) : Nadeem Murtaza, Inam Uddin Ahmed,
Sheeran Mohiuddin Alavi, Shubham
Tripathi

Counsel for Opposite Party(s) : G.A., Salman Abbas, Vikas Vikram
Singh

Court No. - 15 AFR

HON'BLE BRIJ RAJ SINGH, J.

1. The present application has been filed seeking quashing of the entire proceedings of Complaint Case No.53786 of 2022, Nazish Fatima Vs. Mohd. Abbas and others, Police Station Hazratganj, District Lucknow and the summoning order dated 19.11.2022 passed by the Additional Chief Judicial Magistrate-IV, Lucknow.

2. It is the case of the applicants that applicant no.1 is an old aged housewife, whereas applicant no.2 is the retired Engineer from the U.P. State Cement Corporation and applicant no.3 is an engineering graduate, currently working in a private multinational company at Noida. It is said that applicants are innocent and have been falsely implicated by opposite party no.2 by making false allegation with oblique motive. It is said that applicant no.3 came in contact with opposite party no.2 through matrimonial website, namely, Shaadi.com and consequently both of them met at Barista Coffee House, Rana Pratap Marg, Hazratganj, Lucknow on 04.09.2021. Opposite party no.2 introduced herself as a conservative and religious person and informed that she is pursuing D.Pharm from the Integral University, Lucknow. Opposite party no.2 told applicant no.3 that her father had been residing and working in a Motor Garage, in Saudi Arabia for the past twenty five years and had recently returned to India during the Covid-19 pandemic and now he is running a General Store in

Muftiganj, Lucknow. Due to the aforesaid, it was informed by the opposite party no.2 that there are compatibility issues in her family and thus, she wants to get married at the earliest and get settled in her life.

3. It is said that applicants no.1 and 2 after intimation to the family members of opposite Party no.2, visited her home along with close relatives on 30.10.2021 and the Engagement Ceremony of applicant no.3 and opposite party no.2 was done, wherein applicants no.1 and 2 also handed presented a Gold Ring, Cash of Rs.20,000/- and sweets etc. In return, the family members of opposite party no.2 visited the house of the applicants on 13.11.2021. On 13.02.2022, applicants no.1 and 2 visited the residence of opposite party no.2 to finalize the dates of marriage and on mutual agreement, the dates for Nikah and Walima were fixed as 04.11.2022 and 07.11.2022 respectively. Thereafter, parents of opposite party no.2 visited the residence of brother of applicant no.1 on 14.02.2022 on the occasion of the Birth Anniversary of Hazrat Ali and they spent time together discussing the future marriage plans.

4. It is said that shockingly in February, 2022, applicant no.3 started receiving messages on Instagram Id from an unknown person and on 23.02.2022, several obscene and vulgar photographs of opposite party no.2 were shared by the said person, who was identified as one Haris Javed Ansari by opposite party no.2. Applicant no.3 came to know that opposite party no.2 was in relationship with the aforesaid person, namely, Haris Javed Ansari of Shahjahanpur and, therefore, on the news of the engagement of applicant no.3 opposite party no.2, the said person decided to intervene and stop the marriage of applicant no.3. Applicant no.3 also came to know that one Aman Husaini of Varanasi was also in relationship with opposite party no.2 earlier and the photographs of opposite party no.2 are with Aman Husaini as well as with Haris Javed Ansari. The aforesaid details were informed to opposite party no.2 and her family members, on which on 27.02.2022, parents of opposite party no.2 called the applicants to Shahnajaf Imambara, Hazratganj and there opposite party no.2 took oath on the religious book that she has no relation with the aforesaid persons at present. On 03.03.2022, father of opposite party no.2 visited the house of the applicants and informed that he would take action against Haris Javed Ansari for sharing private photographs of opposite

party no.2 on internet and thereafter opposite party no.2 visited Shahjahanpur along with her parents and called Haris Javed Ansari to the Police Station Sadar Bazar, Shahjahanpur and was made to sign the apology letter. Opposite party no.2 herself shared the photograph of the apology letter as well as the photograph of Haris Javed Ansari signing the apology letter and the mobile phone screen shot of Haris Javed Ansari as proof that he was the one messaging and sharing private photographs on Instagram application.

5. It is said that opposite party no.2 demanded Rs.15,000/- through WhatsApp chat from applicant no.3 and when the aforesaid transaction could not be done due to technical fault, opposite party no.2 got angry and blocked the WhatsApp of applicant no.3. Thereafter, parents of opposite party no.2 proceeded to get her marriage fixed with one Zaim Ali Zamin, whilst the applicants awaited response from them. The applicants could not comprehend when they came across the Wedding Invitation Card as well as the online invitation video of the marriage of opposite party no.2 with Zain Ali Zamin, which was scheduled to take place on 04.11.2022 itself, i.e. the date on which earlier the marriage of applicant no.3 was fixed with the opposite party no.2.

6. Sri Nadeem Murtaza assisted by Sri Shubham Tripathi and Inamuddin Ahmad, counsel for the applicants submits that in February, 2022, applicant no.3 started receiving messages on Instagram Id from an unknown person and on 23.02.2022 several obscene and vulgar photographs of opposite party no.2 were shared by the said person. This fact has been stated in paragraph-14 of the application. However, while replying to the said paragraph, opposite party no.2 has admitted the fact. He further submits that opposite party no.2 was in relation with the aforesaid person, namely, Haris Javed Ansari of Shahjahanpur and on the news of engagement of applicant no.3 with opposite party no.2, the said person decided to intervene and stop the marriage of opposite party no.2. It is submitted that in such scenario, the marriage could not be solemnized as certain differences arose between the parties as opposite party no.2 was in relation with another man. Since the marriage could not be solemnized, out of retaliation opposite party no.2 instituted the criminal proceedings by filing the present complaint against the applicants just to settle her

personal score.

7. Counsel for the applicants further submits that even if it is assumed that there was physical relationship between applicant no.3 and opposite party no.2, then the same is consensual and such relationship does not come within the purview of Section 376 IPC.

8. Counsel for the applicants by placing reliance upon the judgement of the Hon'ble Supreme Court rendered in the case of *Pradeep Kumar Keshawani Vs. State of Uttar Pradesh and another*, 2025 SCC OnLine SC 1947 has submitted that there is a clear distinction between rape and consensual sex and in a case where there is a promise of marriage, the Court must very carefully examine whether the accused had actually wanted to marry the victim or had *mala fide* intention. He has further relied upon paragraph-20 of the aforesaid judgment, where four guidelines have been framed while entertaining the application under Section 482 Cr.P.C. and in guideline (ii) it is provided that whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false. Counsel for the applicants has pointed out that the attending circumstances are very relevant in the present case, wherein it is established that opposite party no.2 had relationship with some other person on account of which the marriage could not be solemnized. Once this fact has been admitted, then the judgement of the Hon'ble Supreme Court rendered in the case of *Pradeep Kumar Kesharwani* (supra) comes to the rescue of the applicant.

9. Counsel for the applicants by placing reliance upon the judgement of the Hon'ble Supreme Court rendered in the case of *Pramod Suryabhan Pawar Vs. State of Maharashtra and another*, (2019) 9 SCC 608 has submitted that in the case of woman engaging in sexual relations on false promise to marriage, the Court has to be very careful and after examining the facts and circumstances of the case, the Court may take decision on the given facts.

10. Sri Rao Narendra Singh, learned AGA-I on the other hand by opposing the case has submitted that the offence is serious in nature, therefore, statement of the prosecutrix is self-sufficient to prosecute the applicants. Therefore, the trial court has rightly summoned the applicants and no interference is required by this Court.

11. Heard learned counsel for the applicants as well as learned AGA and perused the record. However, no one has put in appearance on behalf of opposite party no.2 though name of the counsels have been shown in the cause list.

12. Hon'ble Supreme Court in the case of *Pramod Suryabhan Pawar* (supra) held as under:-

“12 This Court has repeatedly held that consent with respect to Section 375 of the IPC involves an active understanding of the circumstances, actions and consequences of the proposed act. An individual who makes a reasoned choice to act after evaluating various alternative actions (or inaction) as well as the various possible consequences flowing from such action or inaction, consents to such action. In Dhruvaram Sonar which was a case involving the invoking of the jurisdiction under Section 482, this Court observed:

“15. ... An inference as to consent can be drawn if only based on evidence or probabilities of the case. “Consent” is also stated to be an act of reason coupled with deliberation. It denotes an active will in mind of a person to permit the doing of the act complained of.”

This understanding was also emphasised in the decision of this Court in [Kaini Rajan v State of Kerala](#):

“12. ... “Consent”, for the purpose of Section 375, requires voluntary participation not only after the exercise of intelligence based on the knowledge of the significance of the moral quality of the act but after having fully exercised the choice between resistance and assent. Whether there was consent or not, is to be ascertained only on a careful study of all relevant circumstances.”

14 In the present case, the “misconception of fact” alleged by the complainant is the appellant’s promise to marry her. Specifically in the context of a promise to marry, this Court has observed that there is a distinction between a false promise given on the understanding by the maker that it will be broken, and the breach of a promise which is made in good faith but subsequently not fulfilled. In [Anurag Soni v State of Chhattisgarh](#), this Court held:

“12. The sum and substance of the aforesaid decisions would be that if it is established and proved that from the inception the accused who gave the promise to the prosecutrix to marry, did not have any intention to marry and the prosecutrix gave the consent for sexual intercourse on such an assurance by the accused that he would marry her, such a consent can be said to be a consent obtained on a misconception of

fact as per [Section 90](#) of the IPC and, in such a case, such a consent would not excuse the offender and such an offender can be said to have committed the rape as defined under [Sections 375](#) of the IPC and can be convicted for the offence under [Section 376](#) of the IPC.”

Similar observations were made by this Court in *Deepak Gulati v State of Haryana* (“*Deepak Gulati*”):

“21. ... There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accused...”

16. Where the promise to marry is false and the intention of the maker at the time of making the promise itself was not to abide by it but to deceive the woman to convince her to engage in sexual relations, there is a “misconception of fact” that vitiates the woman’s “consent”. On the other hand, a breach of a promise cannot be said to be a false promise. To establish a false promise, the maker of the promise should have had no intention of upholding his word at the time of giving it. The “consent” of a woman under Section 375 is vitiated on the ground of a “misconception of fact” where such misconception was the basis for her choosing to engage in the said act. In *Deepak Gulati* this Court observed:

“21. ... There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accused; and whether the consent involved was given after wholly understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused, and not solely on account of misrepresentation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently.

.....

“24. Hence, it is evident that there must be adequate evidence to show that at the relevant time i.e. at the initial stage itself, the accused had no intention whatsoever, of keeping his promise to marry the victim. There may, of course, be circumstances, when a person having the best of intentions is unable to marry the victim owing to various unavoidable circumstances. The “failure to keep a promise made with respect to a future uncertain date, due to reasons that are not very clear from the evidence available, does not always amount to misconception of fact. In order to come within the meaning of the term “misconception of fact”, the fact must have an immediate relevance”. [Section 90](#) IPC cannot be called into aid in such a situation, to pardon the act of a girl in entirety, and fasten criminal liability on the other, unless the court is assured of the fact that from the very beginning, the accused had never really intended to marry her.” (Emphasis supplied)

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."

13. In the case of ***Pramod Kumar Navratna Vs. State of Chhattisgarh and others***, 2026 SCC OnLine SC 154, Hon'ble supreme Court held as under:-

"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 (1) of Section 4 of the Special Marriage Act, 1954.

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. 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 v. 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."

14. Now, the question which falls for consideration is that whether the act of applicant no.3, as alleged in the complaint, comes within the purview of Section 376 IPC and whether the allegation of committing rape on the false promise of marriage by applicant no.3 is proved *prima facie* on the basis of averments made in the complaint coupled with the attending circumstances of the case. Before dealing with this issue, it is relevant to recollect the attending facts and circumstances of the case again, which run as under:-

"Applicant no.3 came in contact with opposite party no.2 through matrimonial website and thereafter they met at a Coffee House on 04.09.2021. After introduction of each other, parents of applicant no.3 visited the house of opposite party no.2 along with their close relatives on 30.10.2021 and engagement ceremony was also done, wherein they exchanged the gifts including gold ring and cash. After much deliberations, dates for Nikah and Walima were fixed as 04.11.2022 and 07.11.2022 respectively. In the meantime, applicant no.3 and opposite party no.2 met so many times and established physical relation on their free will and consent. All of sudden, in February, 2022, applicant no.3 received messages and obscene and vulgar photographs of opposite party no.2 on Instagram Id from an unknown person and later on it came to the knowledge of applicant no.3 that the said person is Haris Javed Ansari

from Shahjahanpur. Applicant no.3 also came to know that one Aman Hussaini of Varanasi was also in relationship with opposite party no.2 earlier and the obscene and vulgar photographs of opposite party no.2 are also with him. After intervention of the parents of opposite party no.2, on 27.02.2022 at Shahnajaf Imambara, Hazratganj, Lucknow opposite party no.2 took oath on the religious Book "Quran" that she has no relation with the aforesaid persons at present. Thereafter, father of opposite party no.2 visited the house of the applicants and informed them that he would take action against Haris Javed Ansari for the aforesaid act, pursuant to which they visited Shahjahanpur and at the Police Station Sadar Bazar, Shahjahanpur an apology letter was written and signed by Haris Javed Ansari and photograph of the same was also sent to applicant no.3. Thereafter, marriage of opposite party no.2 was fixed with one Zaim Ali Zamin without intimation to the applicants on 04.11.2022 i.e. the date on which earlier marriage of applicant no.3 was fixed with opposite party no.2."

15. After going through the aforesaid attending facts and circumstances coupled with the allegation made in the complaint, it is amply clear that because of the conduct of opposite party no.2, the marriage could not be solemnized and parents of opposite party no.2 fixed the marriage of opposite party no.2 with another person without intimation to the applicants. It is not the case that 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 as narration of the aforesaid attending facts and circumstances of the case, clearly indicate that applicant no.3 is always ready to perform marriage with opposite party no.2 from the very beginning, but because of the intervening unfortunate developments regarding conduct of opposite party no.2, the marriage between them could not be solemnized, for which applicant no.3 cannot be blamed. One relevant fact is to be noted here that applicant no.3 and opposite party no.2 were in contact near about five months and during this period they established physical relation so many times on their free will and consent, but at no point of time, opposite party no.2 made a complaint that applicant no.3 physically assaulted or out of coercion he established

physical relation with her. Hon'ble Supreme Court time and again held that mere fact that the parties indulged in physical relations pursuant to a promise to marry will not amount to a rape in every case and an offence under Section 375 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. However, in the present case the essential ingredients are missing and the facts unmistakably indicate towards a classic case of a consensual relationship turning acrimonious.

16. Hon'ble Supreme Court in the case of *Mohammad Wajid Vs. State of U.P.*, 2023 SCC OnLine SC 951 while dealing with the duty of the court in cases where an accused seeks quashing of an FIR or proceedings on the ground that such proceedings are manifestly frivolous, or vexatious, or instituted with an ulterior motive for wreaking vengeance, held as under:-

*“34. At this stage, we would like to observe something important. **Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely.** We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. **Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.** Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.” (Emphasis supplied).*

17. If this Court considers the attending circumstances of the present case in the light of the aforesaid judgement, then it is clear that opposite party no.2 in order to settle her personal score and out of vengeance, instituted the present criminal proceedings by filing a complaint against the applicants subsequently on 02.06.2022 i.e. after applicant no.3 came to know about the conduct of opposite party no.3 and her physical relations with other persons, therefore, the offence under Section 376 IPC and allegation of rape by applicant no.3 on false promise of marriage is bereft of record.

18. Hon'ble Supreme Court in the case of *Pradeep Kumar Kesharwani* (supra) while dealing with the terms "Rape" and "consensual sex" and by relying upon the judgement of the Supreme Court rendered in the case of *Deepak Gulati Vs. State of Haryana*, (2013) 7 SCC 675 held as under"

"18. There is a clear distinction between rape and consensual sex and in a case where there is a promise of marriage, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives and had made a false promise to this effect only to satisfy his lust, as the latter falls in the ambit of cheating or deception.

19. In the aforesaid context, we may refer to and rely upon the decision of this Court in the case of Deepak Gulati v. State of Haryana, (2013) 7 SCC 675. This Court made the following observations:

"18. Consent may be express or implied, coerced or misguided, obtained willingly or through deceit. Consent is an act of reason, accompanied by deliberation, the mind weighing, as in a balance, the good and evil on each side. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives, and had made a false promise to this effect only to satisfy his lust, as the latter falls within a ambit of cheating or deception. There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accuse; and whether the consent involved was given after wholly, understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused, and not solely on account of mis-representation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently. An accused can be convicted for rape only if the court reaches a conclusion that the intention of the accused was mala fide, and that he had clandestine motives.

*21. Hence, it is evident that there must be adequate evidence to show that at the relevant time, i.e. at initial stage itself, the accused had no intention whatsoever, of keeping his promise to marry the victim. **There may, of course, be circumstances,***

when a person having the best of intentions is unable to marry the victim owing to various unavoidable circumstances. The "failure to keep a promise made with respect to a future uncertain date, due to reasons that are not very clear from the evidence available, does not always amount to misconception of fact. In order to come within the meaning of the term misconception of fact, the fact, the fact must have an immediate relevance." Section 90, IPC cannot be called into aid in such a situation, to pardon the act of a girl in entirety, and fasten criminal liability on the other, unless the court is assured of the fact that from the very beginning, the accused had never really intended to marry her. (Emphasis supplied)

19. Further, in the case of *Pradeep Kumar Kesharwani* (supra), Hon'ble Supreme Court has framed four guidelines for entertaining the application under Section 482 Cr.P.C. and in guideline (ii) it is provided that whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false. For the sake of convenience, the aforesaid four guidelines framed by the Hon'ble Supreme Court are extracted herein below:-

“20. *The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-*

(I) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(II) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of Justice?

*If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 of the Cr. P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: *Rajiv Thapar v. Madan Lal Kapoor* (Criminal Appeal No. 174 of 2013)].”*

20. Recently, a three Judges Bench of the Hon'ble Supreme Court in the case of **Sajal Bose Vs. The State of West Bengal and others**, 2026 SCC OnLine SC 525 while dealing with the similar question held as under:-

“31. In view of the foregoing discussion and upon a cumulative consideration of the allegations in the FIR, the material collected during investigation, and the evidence placed before us, we are of the considered opinion that the present case falls squarely within the illustrative categories (1), (3) and (7) enumerated in paragraph 102 of Bhajan Lal (supra). Even if the allegations in the FIR and the material collected during investigation are taken at their face value and accepted in their entirety, they do not prima facie constitute the necessary ingredients of offences alleged against the appellants. Further, the uncontroverted material available on record, to be specific, the CCTV footage, completely belies the allegation of their participation in the alleged offences so as to justify their being put to trial. Additionally, the attendant circumstances, particularly the admitted pre-existing disputes between the parties and the absence of specific and distinct overt acts attributed to the appellants, lend substance to their contention that the criminal proceedings are manifestly attended with malafide and have been initiated with an ulterior motive. In such circumstances, permitting the continuation of prosecution of the appellants would not advance the cause of justice but would instead amount to an abuse of the process of law.

32. Recently, this Court in Pradeep Kumar Kesarwani v. State of Uttar Pradesh, revisited and further elucidated the parameters governing the exercise of inherent jurisdiction under Section 482 of CrPC. While drawing guidance from earlier precedents, this Court delineated a structured four step test to assess the sustainability of a prayer for quashing criminal proceedings. The said decision underscores that where the material relied upon by the accused is of sterling and impeccable quality; is sufficient to negate the allegations in the complaint; remains unrefuted or incapable of justifiable refutation by the prosecution; and where continuation of the proceedings would amount to an abuse of the process of Court and not serve the ends of justice, the High Court would be justified in exercising its inherent powers to quash the proceedings. For ready reference, the relevant observations from the said judgment are reproduced hereinbelow: -

“20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013))]”

33. *Applying the aforesaid ratio to the case at hand, we find that the material relied upon by the appellants in the present case, particularly the CCTV footage forming part of the chargesheet, is of unimpeachable provenance and reliability, having been collected during investigation and forming part of prosecution’s own record. The footage, which was heavily relied upon by both the sides during the course of arguments, upon careful scrutiny, does not depict the appellants participating in any act of assault or overt aggression, thereby substantially dislodging the factual foundation of the allegations against them. The said material stands unrefuted in any meaningful manner and is of such character that it cannot be lightly brushed aside even at the stage when the Court is considering a prayer for quashing the proceedings of the criminal case at its inception.*

34. *In this backdrop, compelling appellant Nos. 1, 2 and 3 to face a full-fledged criminal trial would serve no meaningful purpose. The continuation of such proceedings, in face of total lack of credible material connecting them with the alleged offences, would amount to misuse of the criminal process. The present case, therefore, satisfies each of the parameters delineated in Pradeep Kumar Kesarwani (supra). Where reliable and unimpeachable material demonstrably displaces the factual basis of the accusations and the prosecution is unable to effectively counter the same, the Court would be justified in invoking its inherent jurisdiction to prevent injustice. Such an approach not only accords justice to the accused but also obviates the wastage of precious judicial time on proceedings which, on the admitted material, do not hold a reasonable prospect of culminating in conviction.”*

21. It is relevant to mention here that the averments made in paragraph-14 of the application regarding the messages, obscene and vulgar photographs of opposite party no.2 sent on the Instagram ID of applicant no.3 by Haris Javed Ansari are also not rebutted by opposite party no.2 in paragraph-18 of the counter affidavit.

22. It is very strange to note that applicant no.3 has not broken the marriage, rather it is opposite party no.2, who had committed breach of promise as her parents fixed the marriage of opposite party no.2 with another person in consultation with her even without intimation to the applicants that too on 04.11.2022 i.e. the date on which earlier marriage of applicant no.3 was fixed with opposite party no.2, but in spite of that opposite party no.2 has made allegation against applicant no.3 for committing rape on false promise of marriage. Legal acts and laws are fundamentally designed to dispense justice, maintain social order and protect rights, rather than serve as tools for personal vengeance,

retaliation or settling private scores. Hon'ble Supreme Court has time and again consistently held that using legal proceedings, such as criminal complaints to harass or pressure on opposite party constitutes an abuse of the legal process. In this regard, Hon'ble Supreme Court in the well known judgement in the case of *State of Haryana Vs. Bhajan Lal*, 1992 Supp (1) SCC 335 has delineated seven categories of cases, particularly category no.7, wherein such extraordinary jurisdiction may be invoked to prevent abuse of the process of law or otherwise to secure the ends of justice. For ready reference, the relevant extract of the said judgement is quoted below:-

"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.

(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. (Emphasis supplied)

23. Hon'ble Supreme Court in the case of ***Salib Vs. State of U.P.***, (2023) 20 SCC 194 again held as under:-

“26. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

24. Upon a cumulative consideration of the allegations in the complaint, the evidence placed on record and the attending circumstances enumerated above, *prima facie*, appears that they do not constitute the necessary ingredients of offence alleged against the applicants and the reliable and unimpeachable material demonstrably displaces the factual basis of the accusations and the prosecution is unable to effectively counter the same, the Court would be justified in invoking its inherent jurisdiction under Section 482 Cr.P.C. to prevent injustice as such an approach not only accords justice to the accused but also obviates the wastage of precious judicial time on proceedings which, on the admitted material, do

not hold a reasonable prospect of culminating in conviction. Therefore, I am of the considered opinion that the impugned proceedings cannot be sustained in law and the same deserve to be quashed.

25. Application is accordingly *allowed* and the entire proceedings of Complaint Case No.53786 of 2022, Nazish Fatima Vs. Mohd. Abbas and others, Police Station Hazratganj, District Lucknow and the summoning order dated 19.11.2022 passed by the Additional Chief Judicial Magistrate-IV, Lucknow, are hereby quashed *qua* the applicants.

(Brij Raj Singh,J.)

April 7, 2026

Rao/-