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IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on : 24.02.2025

+ **CRL.REV.P. 554/2017 & CRL.M.A. 12166/2017**

STATE Petitioner

versus

MANJEET Respondent

Advocates who appeared in this case:

For the Petitioner : Mr.Naresh Kumar Chahar, APP for the State with SI Dharmveer, PS Chhawla.

For the Respondent : Mr. Anirudh Yadav, Adv. (through VC)

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

CRL.M.A. 12166/2017 (condonation of delay of 12 days in filing the present petition)

1. For the reasons mentioned in the application, the same is allowed and the delay in filing the present petition is condoned.
2. The application stands disposed of.

CRL.REV.P. 554/2017

3. The present petition is filed against the order dated 24.03.2017



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(hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('ASJ'), Dwarka Courts, New Delhi in SC No. 144/2017 whereby the respondent was discharged of the offence under Sections 376/506 of the Indian Penal Code, 1860 ('**IPC**').

4. The FIR No. 255/2016 dated 28.06.2016 was registered on a complaint made by the prosecutrix. It is alleged that the prosecutrix was on friendly terms with the respondent for the last about one and a half year. It was alleged that the respondent wanted to establish physical relations with the prosecutrix and when she refused, he promised to marry her. Thereafter the respondent took the prosecutrix to his office on several occasions and established physical relations with her.

5. It was alleged that thereafter when the prosecutrix got pregnant, she was forced to take pills to terminate her pregnancy. It was further alleged that on 26.06.2016, the respondent forcibly entered into physical relationship with the prosecutrix and also refused to marry her. The same culminated into the registration of the subject FIR under Sections 376/313/506 of the IPC.

6. Chargesheet in the present case was filed under Sections 376/506 of the IPC.

7. By the impugned order, the learned ASJ discharged the respondent of the offences under Sections 376/506 of the IPC. It was noted that there had been an inordinate delay in the registration of the subject FIR. It was noted that in the FIR as well as her statement under Section 164 of the Code of Criminal Procedure, 1973 ('**CrPC**'), the



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prosecutrix failed to mention any specific date and time indicating when the alleged offences took place. It was noted that the respondent was acquainted with the prosecutrix. It was noted that the prosecutrix was mature enough to understand what was happening between the respondent and herself.

8. It was noted that the prosecutrix was medically examined on 28.06.2016, and the MLC report does not indicate any external injury mark on the person of the prosecutrix at the time of the examination. It was noted that there existed no medical evidence to support the version of the prosecutrix, and that she had been taken to the hospital after considerable delay.

9. The learned ASJ noted that the oral and documentary evidence did not disclose a grave suspicion against the respondent for framing a charge under Sections 376/506 of the IPC.

10. The learned Additional Public Prosecutor for the State submitted that the learned ASJ erred in discharging respondent of the offences under Sections 376/506 of the IPC. He submitted that the learned ASJ did not correctly assess the prosecution evidence at the time of framing of the charges. He submitted that the impugned order is based on presumptions and conjectures, and is consequently liable to be set aside.

11. He submitted that at the stage of framing of charge, the Court is not required to conduct a roving enquiry. He submitted that at such stage, the Court is only required to ascertain whether a *prima facie* case is made out against the accused or not. He submitted that the guilt



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of the respondent can be inferred from the statement of the prosecutrix herself wherein she conceded that she did consent to engage in physical relation a few times, however, on other occasions, the respondent forcibly established physical relations with the prosecutrix on the pretext of marrying her.

12. He submitted that the learned ASJ erroneously observed that no specific date and time when the alleged incident took place was mentioned. He submitted that the statement under Section 164 of the CrPC specifically notes that the accused had refused to marry 2 – 3 days before giving the complaint.

13. He submitted that the learned ASJ failed to appreciate that the prosecutrix extended her consent to engage into physical relations with respondent only on the basis of a misconception of fact. He consequently submitted that the impugned order ought to be set aside.

14. *Per contra*, the learned counsel for the respondent submitted that the learned ASJ rightly discharged the respondent. He submitted that the respondent had falsely been implicated in the present case. He submitted that from a bare perusal of the statement of the victim, it is evident that the relation between the prosecutrix and the respondent was consensual. He submitted that since no *prima facie* case for the alleged offences was made out, the respondent was rightly discharged of the alleged offences by the learned ASJ.

Analysis

15. The scope of interference by High Courts while exercising



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revisional jurisdiction in a challenge to order framing charge/discharge is well settled. The power ought to be exercised sparingly, in the interest of justice. It is not open to the Court to misconstrue the revisional proceedings as an appeal and reappreciate the evidence unless any glaring perversity is brought to its notice.

16. Since the State has assailed the impugned order whereby the respondents were discharged for the offences under Sections 376/506 of the IPC, it will be apposite to succinctly discuss the statutory law with respect to framing of charge and discharge as provided under Section 227 and 228 of the CrPC. The same is set out below:

“227. Discharge If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of Charge

(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, 1 [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;



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(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of subsection (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.”

17. The Hon’ble Apex Court in **Union of India v. Prafulla Kumar Samal : (1979) 3 SCC 4**, dealt with the scope of enquiry a judge is required to make with regard to the question of framing of charges.

Inter alia, the following principles were laid down by the Court:

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

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(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. **By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.**”

(emphasis supplied)

18. The Hon’ble Apex Court, in the case of **Sajjan Kumar v. CBI : (2010) 9 SCC 368**, has culled out the following principles in respect



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of the scope of Sections 227 and 228 of the CrPC while observing that a prima facie case would depend on the facts and circumstances of each case. The relevant paragraphs read as under:

“21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before



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framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

(emphasis supplied)

19. In ***State of Gujarat v. Dilipsinh Kishorsinh Rao : (2023) 17 SCC 688***, the Hon’ble Apex Court has discussed the parameters that would be appropriate to keep in mind at the stage of framing of charge/discharge, as under:

“7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that stage, the trial judge has to merely examine the evidence placed by the prosecution in order to



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determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.

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12. The primary consideration at the stage of framing of charge is the test of existence of a prima-facie case, and at this stage, the probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in the State of Maharashtra v. Som Nath Thapa, (1996) 4 SCC 659 and the State of MP v. Mohan Lal Soni, (2000) 6 SCC 338 has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima-facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.”

20. The Court at the stage of framing of charge is to evaluate the material only for the purpose of finding out if the facts constitute the



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alleged offence, given the ingredients of the offence. Thus, while framing of charges, the Court ought to look at the limited aspect of whether, given the material placed before it, there is grave suspicion against the accused which is not properly explained. Though, for the purpose of conviction, the same must be proved beyond reasonable doubt.

21. The limited question for the determination of this Court is thus whether the learned ASJ rightly discharged the respondent of the alleged offences.

22. The translated copy of the statement of the prosecutrix under Section 164 of the CrPC reads as under :

**“COMPLAINANT XXXXX UNDER SECTION 164
CRPC**

During the course of investigation on 28.06.2016 I SI got registered statement of complainant XXXXX under section 164 CrPC in the court of Sh. Vaibhav Mehta, MM, Dwarka Court which is as follows - my name is XXXXX. I am 21 years of age. In year 2015 a boy namely Manjit met me. He used to come in my neighbourhood area for meeting someone. He proposed me for solemnizing marriage with me. I told him yes. In the last 1-1/2 years. I with Manjit made physical relations enough times. All this used to happen in office in Shyam Vihar. In all these physical relation, few were made with my sweet will and the remaining were made under pressure. Manjit used to tell that our marriage is going to solemnized and sometimes he used to threaten me for coming in my house that he will state to my mother all facts regarding it. Manjit remained postponing in respect of solemnization of the marriage and



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finally before 2-3 days Manjit denied for solemnization of marriage. Now he wants to solemnize his marriage with a girl namely Veenita. Manjit had done sexual intercourse with me several times, few from my own sweet will and few after putting me under pressure. If he solemnizes his marriage with me then I will withdraw my case because therefore I have done sexual intercourse with him because sometimes he used to say that he will solemnize his marriage with me otherwise I want to take sternest legal action against him.”

23. The allegation against the respondent is that he established physical relations with the prosecutrix on multiple occasions on the false pretext of marriage. The case of the prosecutrix therefore is essentially that a promise was made to her by the respondent that he would be marrying her. Consequently, it is further her case that the prosecutrix consented to engage in physical relations with the respondent on the misconception that the respondent would ultimately be marrying her.

24. It is pertinent to mention that Section 90 of the IPC deals with consent given under fear or misconception. The same reads as reproduced hereunder:

“90. Consent known to be given under fear or misconception.—A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or



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Consent of insane person.—if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

Consent of child.—unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.”

25. Accordingly, if a consent given under fear of injury or misconception of fact, and if the person doing the act knows, or has reason to believe that the consent given was a consequence of such fear or misconception, the same would not be considered as consent under Section 90 of the IPC.

26. However, while noting so, it is pertinent to mention that if the person giving the consent can be said to have an active understanding of the facts and circumstances, and the consequences of the proposed act, the same would only stipulate the presence of consent. The Hon’ble Apex Court in the case of ***Pramod Suryabhan Pawar v. State of Maharashtra and another : (2019) 9 SCC 608*** while determining the meaning of “consent” for the purpose of Section 375 of the IPC observed as under:

“12. This Court has repeatedly held that consent with respect to Section 375 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 [Dhruvaram Murlidhar Sonar v. State of



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Maharashtra, (2019) 18 SCC 191 : 2018 SCC OnLine SC 3100] which was a case involving the invoking of the jurisdiction under Section 482, this Court observed : (SCC para 15) “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 [Kaini Rajan v. State of Kerala, (2013) 9 SCC 113 : (2013) 3 SCC (Cri) 858] : (SCC p. 118, para 12) “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.”

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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 [Anurag Soni v. State of Chhattisgarh, (2019) 13 SCC 1 : 2019 SCC OnLine SC 509] , this Court held : (SCC para 12) “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



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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 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 IPC and can be convicted for the offence under Section 376 IPC.” Similar observations were made by this Court in Deepak Gulati v. State of Haryana [Deepak Gulati v. State of Haryana, (2013) 7 SCC 675 : (2013) 3 SCC (Cri) 660] (Deepak Gulati) : (SCC p. 682, para 21) “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;”

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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 [Deepak Gulati v. State of Haryana, (2013) 7 SCC 675 : (2013) 3 SCC (Cri) 660] this Court observed : (SCC pp. 682-84, paras 21 & 24) “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



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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, [Ed. : The matter between two asterisks has been emphasised in original.] unless the court is assured of the fact that from the very beginning, the accused had never really intended to marry her [Ed. : The matter between two asterisks has been emphasised in original.] .”

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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”



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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.”**

(emphasis supplied)

27. Similarly, the Hon’ble Apex Court in the case of **Naim Ahmed v. State (NCT of Delhi) : 2023 SCC OnLine SC 89** while distinguishing false promise to marry from breach of promise by the accused 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**



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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.”

(emphasis supplied)

28. In the case of ***Sheikh Arif v. The State of Maharashtra and Another*** : 2024 INSC 70, the Hon’ble Apex Court noted that the consent of the prosecutrix would be vitiated if the same is premised on the false promise to marry since the very inception. The relevant paragraph is reproduced hereunder:

“7) Now, the question is whether a case for quashing the criminal proceeding is made out. For that purpose, we are referring to the material which forms a part of the charge sheet. In view of the provisions of Section 375 of the IPC, if the victim of the alleged offence of rape is not under 18 years of age, maintaining a sexual relationship with her consent, is not an offence. As held by this Court in the case of Anurag Soni, if the consent of the victim is based on misconception, such consent is immaterial as it is not a voluntary consent. If it is established that from the inception, the consent by the victim is a result of a false promise to marry, there will be no consent, and in such a case, the offence of rape will be made out.”

(emphasis supplied)

29. It is not in doubt that a man can be held liable if he engages into a physical relationship with any woman on the false pretext of marriage. However, in order to hold such man criminally accountable, it must be shown that such physical relationship is a direct



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consequence of the false promise made by the accused, and is not marred by any other consideration or circumstance on the part of the woman.

30. For this reason, in instances where the physical relationship between the prosecutrix and the accused is continued for a long period, it cannot be said with conviction that the same is only based out of the alleged promise made by the accused. Further, there must be adequate evidence to indicate that *ab initio*, the accused had no intention whatsoever to keep his promise to marry the prosecutrix. Consequently, unless it can be established that the physical relationship was chiefly because of the alleged promise, and is not influenced by any other consideration thereby being directly linked to the alleged promise made by the accused, it cannot be said that the consent of the woman was based on a misconception of fact.

31. In the recent case of ***Mahesh Damu Khare v. State of Maharashtra* : 2024 SCC OnLine SC 3471**, the Hon'ble Apex Court reiterated the legal principles concerning consensual relationships and the initiation of criminal proceedings on allegations of sexual relationship on the false promise of marriage. The Hon'ble Apex Court quashed the FIR against the appellant therein and held as under :

“22..... Thus, in a situation where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said physical relationship was purely because of the alleged promise made by the appellant to marry her. Thus, unless it can be shown that the physical relationship was purely because of the promise of marriage, thereby having a direct nexus with the physical relationship without being influenced by any other



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consideration, it cannot be said that there was vitiation of consent under misconception of fact.

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27..... In our opinion, the longer the duration of the physical relationship between the partners without protest and insistence by the female partner for marriage would be indicative of a consensual relationship rather than a relationship based on false promise of marriage by the male partner and thus, based on misconception of fact.”

28. Moreover, even if it is assumed that a false promise of marriage was made to the complainant initially by the appellant, even though no such cogent evidence has been brought on record before us to that effect, the fact that the relationship continued for nine long years, would render the plea of the complainant that her consent for all these years was under misconception of fact that the Appellant would marry her implausible. Consequently, the criminal liability attached to such false promise would be diluted after such a long passage of time and in light of the fact that no protest was registered by the complainant during all those years. Such a prolonged continuation of physical relationship without demurral or remonstrance by the female partner, in effect takes out the sting of criminal culpability and neutralises it.

29. It will be very difficult to assume that the complainant who is otherwise a mature person with two grown up children, was unable to discover the deceitful behaviour of the appellant who continued to have sexual relationship with her for such a long period on the promise of marriage. Any such mendacious act of the appellant would have been exposed sooner without having to wait for nine years. The inference one can draw under the circumstances is that there was no such false promise made to the complainant by the appellant of marriage by continuing to have physical relationship so as to bring this act within the province of Section 376 IPC and therefore, there was no vitiation of consent under misconception of fact.

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31. In our view if criminality is to be attached to such prolonged physical relationship at a very belated stage, it can lead to serious consequences. It will open the scope for



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imputing criminality to such long term relationships after turning sour, as such an allegation can be made even at a belated stage to drag a person in the juggernaut of stringent criminal process. There is always a danger of attributing criminal intent to an otherwise disturbed civil relationship of which the Court must also be mindful.

32. In the present case, the learned ASJ noted that no specific date and time when the alleged offences took place had been mentioned. It was noted that the prosecutrix was known to the respondent.

33. It was noted that the prosecutrix was mature enough to fully understand what was happening between the prosecutrix and the respondent, and her act of entering into a physical relationship with the respondent was not induced by any misconception of fact. It was noted that the medical examination of the prosecutrix did not point towards any external injury mark on the person of the prosecutrix. It was also noted that there existed no medical evidence to support the version of the prosecutrix.

34. From a perusal of the materials on record, and the statement of the prosecutrix under Section 164 of the CrPC, it transpires that the parties were acquainted with each other. It is the victim's own case that she had known the respondent since the year 2015. The victim stated that the respondent proposed her for solemnizing marriage to which the prosecutrix answered in affirmative. She stated that she had entered into physical relations with the respondent on several occasions, and a few of them were made of her own will and the others were entered into under pressure. She further stated that 2-3 days before the filing of the complaint, the respondent refused to



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solemnize marriage with the prosecutrix, and instead stated that he wanted to solemnize marriage with some other girl.

35. Upon a reading of the statement of the prosecutrix and the materials on record, it cannot be said that the prosecutrix entered into a physical relationship with the respondent solely on account of the alleged promise made by the respondent. It is the prosecutrix's own case that she established physical relations with the respondent on a few occasions of her own will. The complainant, being an adult, entered into a relationship with the petitioner out of her own volition, and her choice to continue the relationship reflects her consent to maintain the relationship. Further, the conduct of the victim indicates her decision to remain in the relationship voluntarily, and the same does not seem to be influenced by any alleged deception.

36. Consequently, there is no grave suspicion against the respondent for framing of charge under Section 376 of the IPC. The learned ASJ rightly noted that the parties were acquainted with each other and the compulsion to establish physical relations first without ascertaining whether the respondent was willing to perform marriage with her is not made out. It was rightly noted that the prosecutrix was mature enough to fully understand what was happening between them. For this reason, it cannot be said that the consent of the prosecutrix was vitiated by virtue of Section 90 of the IPC.

37. Insofar as Section 506 of the IPC is concerned, the only allegation levelled is that the respondent used to threaten the prosecutrix that he would disclose all the facts to her mother should



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the prosecutrix refuse to come.

38. A bare perusal of Section 506 of the IPC makes it clear that before an offence of criminal intimidation is made out, it must be established that an accused had an intention to cause alarm to the complainant. Mere threats given by the accused not with an intention to cause alarm to the complainant would not constitute an offence of criminal intimidation.

39. Upon a consideration of the totality of facts and circumstances, this Court is of the opinion that no grave suspicion arises against the respondent for framing of charges under Sections 376/506 of the IPC. Consequently, this Court does not find any ground that would warrant an interference with the impugned order.

40. The present petition is accordingly dismissed.

AMIT MAHAJAN, J

FEBRUARY 24, 2025