



2025:CGHC:22418-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 1754 of 2025**

Vinay @ Vicky Sahu S/o Omprakash Sahu Aged About 22 Years R/o
Village - Sakri (Chandi), Police Station - Abhanpur, District - Raipur
(C.G.)

...Petitioner**versus**

1 - State of Chhattisgarh Through - The Station House Officer, Police
Station - Kurud, District - Dhamtari (C.G.)

2 - XYZ (Prosecutrix / Complainant)

... Respondents

For Petitioner	:	Mr. Sanjeev Kumar Sahu, Advocate
For Respondents/State	:	Mr. Rahul Tamaskar, Govt. Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Bibhu Datta Guru, Judge****Order on Board****Per Ramesh Sinha, Chief Justice****29.05.2025**

1. Heard Mr. Sanjeev Kumar Sahu, learned counsel for the petitioner. Also heard Mr. Rahul Tamaskar, learned Government Advocate for respondents/State.

2. The petitioner has filed this petition with the following prayer:

“ It is therefore most respectfully prayed that this Hon’ble Court may kindly be pleased to:

I. Allow this petition under Section 528 of B.N.S.S. filed by the petitioner.

II. Quash the impugned FIR dated 28.03.2025 bearing Crime No. 93/2025 registered at Police Station, Kurud, District- Dhamtari (C.G.) for the offence U/s 69 of Bharatiya Nyaya Sanhita, 2023 against the petitioner.

III. Quash the Final Report No. 75/2025 filed by Police Station, Kurud, District- Dhamtari before the learned Judicial Magistrate First Class, Kurud, District- Dhamtari against the petitioner.

IV. Quash the entire criminal proceedings pending in Sessions Case No. 24/2025 before the learned Additional Sessions Judge (F.T.C.), District- Dhamtari against the petitioner.

V. Discharge the petitioner from the charges U/s 69 of Bharatiya Nyaya Sanhita, 2023.

VI. Grant any other relief, which may be deemed fit in given facts and circumstances of the case, in favour of petitioner. ”

3. Brief facts necessary for disposal of this case are that on 28.03.2025, the victim/respondent No.2 lodged written report at Police Station concerned alleging therein that she acquainted with the petitioner since last 8-9 months and they used to talk with each other through mobile. The petitioner given assurance of marriage to the victim and on 09.02.2025 the petitioner visited the house of victim and on the pretext of marriage, he committed sexual intercourse with her in house of the victim and at that time,

the parents and brother of the victim were sleeping in separate room. Thereafter, the petitioner has committed sexual intercourse with her on several times. On 14.02.2025 the petitioner took the victim towards Raipur by his motorcycle, where the petitioner has committed sexual intercourse with her in lonely place. Thereafter, the petitioner has refused to perform marriage with the victim.

4. On the basis of said written report, the offence under Section 69 of the BNS has been registered against the petitioner in Crime No. 93/2025 and upon completion of usual investigation, the charge-sheet was submitted before the learned Judicial Magistrate First Class, Kurud, against the petitioner and on 29.03.2025 the petitioner was arrested in connection with the aforesaid crime and subsequently the petitioner applied for grant of regular bail and accordingly the bail application was allowed and the petitioner has been released from jail. Thereafter, the case was committed to the learned Additional Sessions Judge (F.T.C.), Dhamtari, where the Sessions Case No. 24/2025 has been registered against the petitioner. Hence, this petition.
5. Learned counsel for the petitioner submits that the impugned FIR No. 93/2025 dated 28.03.2025 registered at Police Station, Kurud, District-Dhamtari (C.G.) against the petitioner for the offence punishable under Section 69 of B.N.S. is bad in law and liable to be quashed. It is further submitted that if the case of prosecution is taken as it is, then also the offence under Section 69 of the

BNS is not made out against the present petitioner. It is further submitted that the impugned prosecution of the petitioner is utter abuse of process of law and there is no criminality attracted against the petitioner. It is also submitted that the FIR has been lodged with an inordinate and unexplained delay after 1 year, only for falsely implicating the present petitioner. The victim has never explained the delay in lodging the FIR, which itself creates doubt upon the case of prosecution. A bare perusal of entire charge-sheet, it is evident that nowhere the victim has alleged that the petitioner has forcefully developed physical relationship with her and the physical relation with the consent of both the parties cannot constitute any offence under Section 69 of the BNS, therefore, the alleged offence is not made out against the petitioner. He contended that the victim is a major lady and she had inclination towards the petitioner and had developed physical relationship with the petitioner from her own will. The petitioner had been giving her assurance of the fact that he would get married to her. The physical relationship between the parties had clearly developed with the consent of the victim, as there was neither a case of any resistance, nor had she raised any complaint anywhere at any time. It is further submitted that it appears that the consensus is in favour of the view that the consent given by the victim to sexual intercourse with the petitioner with whom she is deeply in love on a promise that he would marry her on a later date, cannot be said to be given under

a misconception of fact. He relied upon the judgment of the Supreme Court in the matter of ***Pradeep Kumar Verma v. State of Bihar and Anr.*** reported in ***AIR 2007 SCW 5532*** wherein it has been observed as under:

“ If a full-grown girl consents to the act of sexual intercourse on a promise of marriage and continues to indulge in such activity until she becomes pregnant it is an act of promiscuity on her part and not an act induced by misconception of fact. Section 90 IPC cannot be called in aid in such a case to pardon the act of the girl and fasten criminal liability on the other, unless the court can be assured that from the very inception the accused never really intended to marry her. ”

As such, the petition deserves to be allowed and the impugned FIR and consequent proceedings deserve to be quashed and the petitioner be discharge from the offence under Section 69 of the BNS.

6. On the other hand, learned State counsel opposes the submissions made by the learned counsel for the petitioner and submits that the FIR discloses prima facie cognizable offence and as such, the petition deserves to be dismissed.
7. We have heard learned counsel for the parties and perused the documents appended with petition.
8. In ***Neharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others*** : 2021 SCC OnLine SC 315, the Apex Court has observed that the power of quashing should be exercised

sparingly with circumspection in the rarest of rare cases. While examining an F.I.R./complaint, quashing of which is sought, the Court cannot inquire about the reliability, genuineness, or otherwise of the allegations made in the F.I.R./complaint. The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the Court to be cautious. The Apex Court has emphasized that though the Court has the power to quash the F.I.R. in suitable cases, the Court, when it exercises power under Section 482 Cr.P.C., only has to consider whether or not the allegations of F.I.R. disclose the commission of a cognizable offence and is not required to consider the case on merit.

9. From perusal of the allegations levelled in the FIR in question against the petitioner, it transpires that the victim aged about 20 years, who is resident of village Khursenga, has stated that about 8-9 months before lodging the FIR, she came into contact with the petitioner through regular mobile communication, both of them developed a relationship together and the petitioner promised the victim to marry her. Since the petitioner belongs to the victim's community (Sahu), the victim agreed to their relationship, at the night of 09.02.2025 at around 11 PM, the petitioner came to the house of the victim and convinced her to open the door, he entered her room and under the false promise of marriage, he established physical relationship with the victim. At that time, parents and brother of the victim were sleeping in separate rooms, thereafter, whenever her family members were not at home, the

petitioner would come and have made physical relationship with her by repeatedly assuring her of marriage. Also on one occasion, on 14.02.2025, the petitioner took her to Raipur through his motorcycle and again had made physical relationship at an unknown place, and thereafter, despite his promises to marry her, he refused to marry the victim, and the same has caused damage to the reputation of the victim in her village, and even after informing her parents about the same, he continually denied for marriage, which goes to show that the petitioner deceived the victim on the false pretext of marriage and had repeatedly made physical relationship with her. It further transpires from the FIR that from the very beginning, the petitioner did not intent to marry the victim, and has established physical relations with her many times on the pretext of marriage.

10. Keeping that view of the matter and in the light of judgment passed by the Hon'ble Apex Court in **Neharika Infrastructure Pvt. Ltd. (Supra)** and further considering the submissions advanced by the learned Counsel for the parties, we are of the considered opinion that the submissions raised by learned counsel for petitioner relate to the questions of fact, and thus, can not be examined by this Court in proceedings under Section 482 of Cr.P.C. (Now Section 528 of the BNSS). The appreciation of evidence or the reliability of the allegations cannot be examined at this stage.

11. In that view of the matter, we do not find any merit in this petition.

The petition lacks merit is liable to be and is hereby **dismissed**.

Sd/-

(Bibhu Datta Guru)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Rahul Dewangan