[2025] 7 S.C.R. 150 : 2025 INSC 782

Amol Bhagwan Nehul
v.
The State of Maharashtra & Anr.

(Criminal Appeal No. 2835 of 2025)

26 May 2025

[B.V. Nagarathna and Satish Chandra Sharma,* JJ.]

Issue for Consideration

Issue arose as regards the correctness of order passed by the High Court dismissing the petition whereby the appellant sought quashing of criminal case against him that the appellant forcibly had sexual intercourse with the complainant on false promise of marriage.

Headnotes†

Code of Criminal Procedure, 1973 – s.482 – Quashing of criminal case – Complainant alleged that the appellant forcibly had sexual intercourse with her on false promise of marriage – Complaint made and chargesheet filed against appellant u/ss.376, 376(2)(n), 504, 506 IPC – Appellant sought quashing of criminal case – High Court dismissed the petition – Correctness:

Held: It does not appear from the record that the consent of the complainant was obtained against her will and merely on an assurance to marry – Narrative of complainant does not corroborate with her conduct – Consent of complainant as defined u/s.90 IPC also cannot be said to have been obtained under a misconception of fact – No material to substantiate "inducement or misrepresentation" on the part of appellant to secure consent for sexual relations without having any intention of fulfilling said promise – Criminal prosecution against the appellant is probably with an underlying motive and disgruntled state of mind – No reasonable possibility that complainant or any woman being married before and having a child of four years, would continue to be deceived by the appellant or maintain a prolonged association or physical relationship with an individual who has sexually assaulted and exploited her – Not a case where there was a false promise to marry to begin with – Consensual relationship turning sour or partners becoming distant cannot be a ground for invoking criminal machinery of the

* Author

State – Ingredients of the offence u/ss.376 (2)(n) or 506 IPC not established – Appellant is just 25 years of age, and has a lifetime ahead of him, thus, in the interest of justice, the proceedings quashed at this stage itself – Impugned judgment set aside – Penal Code, 1860 – ss.376, 376(2)(n), 504, 506. [Paras 8-12]

Case Law Cited

State of Haryana v. Bhajan Lal **[1990] Supp. 3 SCR 259 : (1992) Supp. 1 SCC 335 – relied on.**

Naim Ahmed v. State (NCT) of Delhi **[2023] 1 SCR 1061 : 2023 SCC Online SC 89 – referred to.**

List of Acts

Code of Criminal Procedure, 1973; Penal Code, 1860.

List of Keywords

Quashing of criminal case; Forcible sexual intercourse on false assurance of marriage; Unnatural sex; Consent obtained under misconception of fact; Inducement or misrepresentation; Promise; Coercion or threat of injury; Criminal prosecution with underlying motive and disgruntled state of mind; Sexual assault; Invoking criminal machinery of State; Blotting identity of individual accused of heinous offence; Prevent abuse of process of law; Interest of justice.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 2835 of 2025

From the Judgment and Order dated 28.06.2024 of the High Court of Judicature at Bombay in CRWP No. 3181 of 2023

Appearances for Parties

Advs. for the Appellant:
Sandeep Sudhakar Deshmukh, Nishant Sharma, Ankur S. Savadikar.

Advs. for the Respondents:
Bharat Bagla, Siddharth Dharmadhikari, Aaditya Aniruddha Pande, Nar Hari Singh, Amit Balasaheb Thorat.

Judgment / Order of the Supreme Court

Judgment

Satish Chandra Sharma, J.

1. Leave granted.

2. This Appeal by special leave is directed against the Impugned Order dt. 28.06.2024 passed by the High Court of Judicature at Bombay in Crl. W.P. No. 3181 of 2023 whereby the Petition u/s 482 of the Code of Criminal Procedure, 1973 (**'CrPC'**) seeking quashing of the Criminal Case C.R. No. 490/2023 dt. 31.07.2023 for offences punishable u/s 376, 376(2)(n), 377, 504 & 506 of the Indian Penal Code (hereinafter "IPC") registered at Karad Taluka Police Station, Satara *qua* the Appellant was dismissed. *Vide* an amendment to the Petition, the Appellant also challenged the chargesheet filed on 26.09.2023 and the proceedings in RCC no. 378/2023 pending before the Additional Sessions Judge, Karad.

3. The Criminal Case C.R. No. 490/2023 dt. 31.07.2023 at Police Station Karad Taluka, Dist. Satara was registered at the behest of a Complaint filed by the Complainant/Respondent no. 2 alleging that during the period 08.06.2022 till 08.07.2023, the Appellant forcibly had sexual intercourse with her on the false assurance of marriage. The Complainant/Respondent no. 2 who had been previously married, had obtained *Khulanama* from her ex-husband and had been residing with her 4-year-old son at her parental home in Kalegaon, Karkad Dist since 2021; while the Appellant, a 23-year-old student of *Bachelor of Science (Agriculture) at Krishna College of Agriculture, Rethre BK, Taluka Karad District, Satara* was residing as a tenant next door, with three other men since 25.05.2022. The sequence of events as recorded in the FIR 490/2023 dt. 31.07.2023 are as under:

   3.1 The parties became acquainted on 08.06.2022, which turned into a friendship and they soon began interacting more frequently. The relationship blossomed into love, but it is stated that the Complainant/Respondent no. 2 repeatedly denied to make physical relations with the Appellant.

   3.2 It is alleged the case of the Complainant that in July 2022, the Appellant had entered the house of the Complainant/Respondent

no. 2 at night, and said that once she obtains divorce from her husband, the Appellant would instantly marry her and on this pretext had sexual intercourse with her, despite her denial. It is stated that since then, the parties continued meeting outside and having meals together; however later on 21.09.2022 on the occasion of the Appellant's birthday, when the Complainant/ Respondent had visited the Rajyog Lounge, Varunji Phata, Airport Karad, the Appellant again had sexual intercourse with her on the assurance of marriage. Thereafter, the Appellant allegedly borrowed money from the Complainant/Respondent no.2 on various occasions & used her car, Hyundai Verna No. MH-12-HZ-9559 for his personal use.

3.3 In January 2023, the parties visited Pushkar Lodge, Ogalewadi, Karad, where the Appellant told the Complainant that he had not informed his family about their relationship, however, he would marry her once her divorce was finalized. Allegedly, despite her objection, the Appellant on this assurance of marriage, again had sexual intercourse with the Complainant/Respondent no. 2 and there is a specific allegation that he committed unnatural sex with her. It is alleged that soon thereafter, the Appellant had reduced his interactions with the Complainant/Respondent no. 2, did not answer her phone calls and left for his hometown at Ahmednagar.

3.4 On 08.07.2023, the Complainant/Respondent no. 2 visited his native village in Ahmednagar and met his parents and other relatives, who refused to marry the Appellant with Complainant/ Respondent no. 2 as they belonged to different religions. Allegedly, when the Complainant refused to leave, the parents of the Appellant, his brother and his uncle pushed her aside by beating and abusing her. The Complaint dt. 31.07.2023 was registered after 23 days of the alleged incident at PS Taluka Karad, Dist. Satara.

4. The Appellant on the other hand, has narrated the sequence differently, stating that during the alleged period of incidence, when he had been assigned a program at Village Kalegaon, Tq. Karad. Dist. Satara for five months, he became acquainted with the Complainant/Respondent no. 2 as his neighbor. The Appellant has denied the allegations of having forced sexual intercourse with the

Complainant/Respondent no. 2 on the assurance of marriage, and stated that it was in-fact the Complainant/Respondent no. 2 who had approached him with proposals and would regularly visit his college, which even led to grievances raised with the college faculty. *Vide* a written Complaint dt. 24.07.2023 with the Police Inspector, Karad Taluka PS Satara, the father of the Appellant has alleged that the Complainant/Respondent no. 2 had been harassing his son & had taken him to different lodges against his will and had threatened to implicate him in false rape cases, if he refused to marry her. A Non-Cognizable Offence Information Report (**NCR**)[1] dt. 24.07.2023 had been registered pursuant to a threatening phone call received on 22.07.2023 at 10:30 pm in the night, on the Appellant's mobile number from another mobile, allegedly threatening that she will beat him by entering his house and destroy his family.

5. Pursuant thereto that the FIR had been maliciously registered against him and that no *prima-facie* case u/s 376, 376(2)(n), 377, 504 & 506 IPC could be made out against him, the Appellant sought anticipatory bail from the Additional Sessions Judge, Karad, which was granted vide Order dt. 23.08.2023. The Additional Sessions Judge, while granting bail to the Appellant made the following remarks:

> *"9. In this backdrop the point cannot be side lined that the victim is matured to understand the significance and morality to which she is consenting. The prosecutrix who is major lady gives consent even on any of the aforesaid assumption and she had sexual intercourse with applicant/ accused, she will be under all circumstances and in all respect considered to be a consenting party. This coupled with the fact that day after day, week after week and month after month, this arrangement continued until the day of reckoning when she complained that promise of marriage is not fulfill or that all this while she was being fedup of this false assurance. Whatever be the worth of promise or assurance, in law informant is deemed to have given consent on her own accord as far as sexual intercourse is concerned. When two young male and female having attained the age of discretion get attracted to each other and*

1 *Section 155 of the Code of Criminal Procedure, 1973.*

due to emotional and passionate attachment succumbed to temptation of sexual relationship then such mental and voluntary participation does not come in the way of granting bail. Hence, accused is entitled for pre-arrest bail. The apprehension shown by prosecution will be safeguarded by imposing conditions……."

6. The Appellant then preferred Crl. W.P. No. 3181 of 2023 seeking quashing of the C.R. No. 490/2023 dt. 31.07.2023 & the proceedings emanating therefrom before the High Court of Judicature at Bombay, and in the meanwhile, the investigation culminated into a charge-sheet 26.09.2023 before the Additional Sessions Judge, Karad.

7. The learned counsel for the Appellant contends that the High Court has erred in dismissing the Petition u/s 482 CrPC insofar as the criminal proceedings in the present case constitute an abuse of process of law, and is well within the categories as contemplated by this Court in **State of Haryana Vs Bhajan Lal**[2]. It is argued that the allegations of forcible sexual assault and unnatural sex are highly improbable as there is no medical evidence to adduce that forcible sexual assault and unnatural sex had been committed upon the Complainant/Respondent no. 2 and that allegations of rape are unsustainable as the relationship between the parties being two mature adults was purely consensual in nature. It is argued that the captioned FIR is registered after a delay of 13 months from the date of the alleged incident, which is considerable to cast doubt on the veracity of the allegations made by the Complainant/Respondent no. 2, especially when she sustained her relationship with the Appellant since the alleged incident.

8. Having heard both sides in this case and after carefully considering the material on record, the following attributes come to the fore:

   (a) Even if the allegations in the FIR are taken as a true and correct depiction of circumstances, it does not appear from the record that the consent of the Complainant/Respondent no. 2 was obtained against her will and merely on an assurance to marry. The Appellant and the Complainant/Respondent no. 2 were acquainted since 08.06.2022, and she herself admits that

2 (1992) Supp. 1 SCC 335.

they interacted frequently and fell in love. The Complainant/ Respondent no. 2 engaged in a physical relationship alleging that the Appellant had done so without her consent, however she not only sustained her relationship for over 12 months, but continued to visit him in lodges on two separate occasions. The narrative of the Complainant/Respondent no. 2 does not corroborate with her conduct.

(b) The consent of the Complainant/Respondent no. 2 as defined under section 90 IPC also cannot be said to have been obtained under a misconception of fact. There is no material to substantiate "inducement or misrepresentation" on the part of the Appellant to secure consent for sexual relations without having any intention of fulfilling said promise. Investigation has also revealed that the *Khulanama,* was executed on 29.12.2022 which the Complainant/Respondent no. 2 had obtained from her ex-husband. During this time, the parties were already in a relationship and the alleged incident had already taken place. It is inconceivable that the Complainant had engaged in a physical relationship with the Appellant, on the assurance of marriage, while she was already married to someone else. Even otherwise, such promise to begin with was illegal and unenforceable *qua* the Appellant.

(c) There is no evidence of coercion or threat of injury to the Complainant/Respondent no. 2, to attract an offence under section 506 IPC. It is improbable that there was any threat caused to the Complainant/Respondent no. 2 by the Appellant when all along the relationship was cordial, and it was only when the Appellant graduated and left for his hometown to Ahmednagar, the Complainant/Respondent no. 2 became agitated. We also cannot ignore the conduct of the Complainant/Respondent no. 2 in visiting the native village of the Appellant without any intimation, which is also unacceptable and reflects the agitated and unnerved state of mind of the Complainant/Respondent no. 2. For the same reason, the criminal prosecution against the Appellant herein is probably with an underlying motive and disgruntled state of mind.

(d) There is also no reasonable possibility that the Complainant/ Respondent no. 2 or any woman being married before and

having a child of four years, would continue to be deceived by the Appellant or maintain a prolonged association or physical relationship with an individual who has sexually assaulted and exploited her.

9. In our considered view, this is also not a case where there was a false promise to marry to begin with. A consensual relationship turning sour or partners becoming distant cannot be a ground for invoking criminal machinery of the State. Such conduct not only burdens the Courts, but blots the identity of an individual accused of such a heinous offence. This Court has time and again warned against the misuse of the provisions, and has termed it a folly[3] to treat each breach of promise to marry as a false promise and prosecute a person for an offence under section 376 IPC.

10. As demonstrated hereinabove, the ingredients of the offence under Sections 376 (2)(n) or 506 IPC are not established. The present case squarely falls under categories enumerated in Para 102(5) & 102(7) as identified by this Court in **State of Haryana Vs Bhajan Lal (supra)** for the exercise of powers u/s 482 CrPC by the High Court so as to prevent the abuse of process of law. Para 102 reads as under:

> *"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.*

3 *Naim Ahmed Vs State (NCT) of Delhi (2023) SCC Online SC 89.*

(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."

11. Taking into consideration that the Appellant is just 25 years of age, and has a lifetime ahead of him, it would be in the interest of justice that he does not suffer an impending trial and, therefore, the proceedings emanating from C.R. No. 490/2023 dt. 31.07.2023 are quashed at this stage itself.

12. Consequently, the Appeal is allowed and the Impugned Order dt. 28.06.2024 passed by the High Court of Judicature at Bombay in Crl. W.P. No. 3181 of 2023 is set aside. Accordingly, C.R. No. 490/2023 dt. 31.07.2023 registered at Karad Taluka Police Station, Satara and proceedings emanating therefrom in RCC no. 378/2023 pending before the Additional Sessions Judge, Karad are quashed, and Appellant is discharged. Bail bonds, if any, also stand cancelled.

13. Pending applications, if any, stand disposed of.

Result of the case: Appeal allowed.

†*Headnotes prepared by:* Nidhi Jain