



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S). OF 2025
(ARISING OUT OF SLP(CRL.) NO(S). 15882 OF 2024)

MANISH YADAV

....APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH & ANR.

....RESPONDENT(S)

O R D E R

Mehta, J.

1. Heard.
2. Leave granted.
3. The appellant through this appeal by special leave seeks to assail the order dated 30th August, 2024 passed by the High Court of Judicature at Allahabad,¹ whereby, it partially allowed the Criminal Appeal No. 227/2024 preferred by the appellant, who had sought to question the legality and validity of the order dated 24th

¹ Hereinafter referred to as 'High Court'.

August, 2023 passed by learned Special Judge, SC/ST Act, Gazipur² in Special Sessions Trial No. 760 of 2023, summoning the appellant and his father, Rajnath Yadav, to face trial for the offences punishable under Sections 376, 323, 504 and 506 of the Indian Penal Code, 1860³ and Sections 3(1)(r), 3(1)(s), 3(2)(5a) and 3(2)(v) of the Scheduled Castes and the Schedules Tribes (Prevention of Atrocities) Act, 1989⁴.

4. The High Court *vide* Impugned Order dated 30th August, 2024, had partly allowed the criminal appeal, by quashing the summoning order issued by the trial Court against the father of the appellant, namely, Rajnath Yadav and upholding the summoning order issued against the appellant. Hence, the present appeal by special leave.

5. Notice of the present special leave petition was served on respondent No. 2 i.e., the complainant/victim⁵, but no one has appeared on her behalf.

6. The case of the prosecution, in brief, is that the appellant befriended the complainant over a social media website, namely

² Hereinafter, referred to as 'trial Court'.

³ Hereinafter, referred to as, 'IPC'.

⁴ Hereinafter referred to as 'SC/ST Act.'

⁵ Hereinafter, referred to as 'Complainant'.

Instagram, which quickly bloomed into a romantic relationship. The appellant allegedly promised the complainant that he would marry her and they would live together as husband and wife. Under the pretence of the said promise of marriage, the appellant established physical relations with the complainant frequently at different places *viz.* Gazipur, Banaras, etc. On account of the repeated physical relations, the complainant conceived in December, 2022 and the appellant forced her to undergo an abortion by taking medication. Subsequently, the appellant began assaulting her and used derogatory caste-based slurs, imputing that he would not marry her since he was a Yadav, but she belonged to a lower caste. Following a complaint from the complainant with these allegations, an FIR⁶ dated 5th August, 2023, came to be registered against the appellant under Sections 376, 313, 323, 504, 506, IPC and Sections 3(1)(d), 3(2)(va) of the SC/ST Act at the P.S. Kotwali, District Gazipur. After investigation, a charge sheet for the aforementioned offences was filed against the appellant, while leaving out the offence under Section 313 IPC.

⁶ Crime No. 387 of 2023.

7. The trial Court, *vide* order dated 24th August, 2023, summoned the appellant and his father for the aforesaid offences, which stands partially affirmed by the High Court(*supra*).

8. We have heard and considered the submissions advanced by learned counsel for the appellant and the learned counsel representing the State of Uttar Pradesh and have gone through the material placed on record.

9. At the outset, we may note that the complainant is a major girl and was working at a Diagnostic Centre in Varanasi when she came in contact with the appellant on the social media website, namely, Instagram.

10. It will be germane to reproduce the statement of the complainant recorded during the course of investigation under Section 164 of the Code of Criminal Procedure, 1973⁷ which provides the substratum of allegations set out against the appellant in the case at hand, and the same reads as follows: -

“Date: 09.08.2023

Victim’s Name: X.X.X.

X.X.X. stated under oath that she met Manish Yadav, son of Rajnath Singh, on Instagram in January 2022. Their friendship

⁷ For short, ‘CrPC’.

started with a message from Manish, which eventually led to mutual liking and in-person meetings. In May 2022, Manish called her to meet at his friend's place, where he behaved inappropriately with her. **Despite her reservations about engaging in a physical relationship, she trusted him and had feelings for him.** Manish later forced himself on her multiple times. In September 2022, X. X. X... moved to Varanasi for work, while Manish relocated to Prayagraj. He would visit her in Varanasi and engage in physical relations without her consent. By December 2022, she discovered she was pregnant. Manish made her take medication to terminate the pregnancy. **When visiting, he would suggest eloping to get married, but she insisted on waiting until he secured a job.** During this period, X. X. X. cousin, Vatika, came to live with her. Manish occasionally became abusive, verbally and physically, during his visits. In February 2023, X. X. X. witnessed Manish and Vatika in an inappropriate situation. Although Manish apologized after a confrontation, he continued his relationship with Vatika. To retaliate, X.X.X.. mentioned a friend named Ajay to make Manish jealous. Manish then questioned her character and refused to marry her, saying he wouldn't marry someone with whom he had been intimate.

X. X. X. visited Manish's home and informed his father, who initially appeared understanding. However, when she tried to follow up, his father dismissed her rudely. Manish continued to exploit her under the pretence of marriage, eventually abandoning her. **When she confronted him about his past relationships with other girls, Manish demanded Rs. 50 lakh as a condition for marriage.**

X.X.X. concluded that she had nothing further to add.”
(emphasis supplied)

11. As per the case set out by the prosecution, the appellant allegedly forced himself upon the complainant on multiple occasions, however on going through the aforesaid statement rendered by the complainant on oath, we find that she had herself admitted that despite her reservations about engaging in a physical

relationship with the appellant, she trusted him and had feelings for him.

12. Furthermore, as per the prosecution case, in September, 2022, the complainant moved to Varanasi for work, whereas the appellant relocated to Prayagraj. Despite that, the appellant continued to visit her in Varanasi and engaged in physical relations with the complainant, allegedly without her consent. In December, 2022, the complainant discovered that she had become pregnant and thereupon, the appellant forced her to take medications in order to terminate the pregnancy. However, the theory put forth by the complainant regarding the appellant forcing her to terminate the pregnancy has not been established, and thus, the offence under Section 313 IPC, stands dropped from the chargesheet.

13. The complainant further stated that later on, her cousin Vatika had also come to reside with her. She alleged that in February, 2022, she saw the appellant and Vatika engaged in an inappropriate position. In retaliation, she befriended a person, namely, Ajay to make Manish jealous. Thereafter, Manish cast aspersions on her character and refused to marry her stating that he was not willing to marry someone with whom he had been intimate once.

14. In our opinion, it is clearly discernible that both the appellant and the complainant were major and thus, both were competent enough to make rational decisions. As per the statement of the complainant(*supra*), their initial physical relations were consensual in nature, and without there being any promise of marriage being offered by the appellant. While it can be said that initially the relationship between the complainant and appellant had developed on the basis of mutual attraction and affection, the same cannot by any stretch of imagination fall within the ambit of a relationship flowing from a promise to marry.

15. The criminal jurisprudence on the scope of 'consent' in cases where sexual intercourse took place on the promise of marriage has been well established through a catena of judgments by this Court. In ***Uday v. State of Karnataka***⁸, this Court acquitted the accused based on the reasoning that the prosecutrix, a mature college student, consented to sexual intercourse with the accused of her own free will. The Court found that she was fully aware of the consequences of her actions and held that her consent was not

⁸ (2003) 4 SCC 46.

based on any misconception of fact. In *Uday*(*supra*), the Court noted that:

“21. It therefore appears that the consensus of judicial opinion is in favour of the view that the consent given by the prosecutrix to sexual intercourse with a person 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. A false promise is not a fact within the meaning of the Code. We are inclined to agree with this view, but we must add that there is no straitjacket formula for determining whether consent given by the prosecutrix to sexual intercourse is voluntary, or whether it is given under a misconception of fact. In the ultimate analysis, the tests laid down by the courts provide at best guidance to the judicial mind while considering a question of consent, but the court must, in each case, consider the evidence before it and the surrounding circumstances, before reaching a conclusion, because each case has its own peculiar facts which may have a bearing on the question whether the consent was voluntary, or was given under a misconception of fact. It must also weigh the evidence keeping in view the fact that the burden is on the prosecution to prove each and every ingredient of the offence, absence of consent being one of them.”

(emphasis supplied)

16. This Court, in the case of *Deepak Gulati v. State of Haryana*⁹, while discussing the nature of the ‘consent’ in cases where sexual intercourse occurs on the promise of marriage, distinguished between a mere ‘breach of promise’ and ‘not fulfilling a false promise’. The Court held as follows:

“21. Consent may be express or implied, coerced or misguided, obtained willingly or through deceit. Consent is

⁹ (2013) 7 SCC 675

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 the 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 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. 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.

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)

17. Moreover, in *Deelip Singh v. State of Bihar*,¹⁰ the Court acquitted and set aside the conviction of the accused while holding that while there was a breach of promise to marry, it was not a case of false promise to marry. The relevant extract is produced hereinunder:

“35. The remaining question is whether on the basis of the evidence on record, it is reasonably possible to hold that the accused with the fraudulent intention of inducing her to sexual intercourse, made a false promise to marry. We have no doubt that the accused did hold out the promise to marry her and that was the predominant reason for the victim girl to agree to the sexual intimacy with him. PW 12 was also too keen to marry him as she said so specifically. But we find no evidence which gives rise to an inference beyond reasonable doubt that the accused had no intention to marry her at all from the inception and that the promise he made was false to his knowledge. No circumstances emerging from the prosecution evidence establish this fact. On the other hand, the statement of PW 12 that “later on”, the accused became ready to marry her but his father and others took him away from the village would indicate that the accused might have been prompted by a genuine intention to marry which did not materialise on account of the pressure exerted by his family elders. It seems to be a case of breach of promise to marry rather than a case of false promise to marry. On this aspect also, the observations of this Court in *Uday case*[(2003) 4 SCC 46 : 2003 SCC (Cri) 775 : (2003) 2 Scale 329] at para 24 come to the aid of the appellant.”

(emphasis supplied)

18. Applying the above principle to the case at hand, it is clearly discernible that in the present case, the complainant had agreed to

¹⁰ (2005) 1 SCC 88.

indulge in intimate relations with the appellant on the accord of her own desires and not on the basis of any false promise of marriage made by the appellant. Therefore, while the present case may involve a breach of promise, it does not constitute a case of an inherently false promise to marry. Based on the circumstances, it cannot be concluded that the appellant obtained the complainant's consent to engage in a physical relationship under the pretext of a false promise of marriage.

19. Admittedly, during his visit to Varanasi, the appellant himself had asked the complainant to elope with him and get married, but it was the complainant who insisted on waiting till he secured a job. Therefore, while the prosecution story primarily rests on the fact that the appellant had lured the complainant to develop physical relations with him on the promise to marry her in future, this very statement of the complainant suggests the contrary. The complainant's act of declining the appellant's proposal of marriage shows that it was not the appellant who failed to stand firm upon his promise if any such promise was made by the appellant at any point in time.

20. Thus, the theory put forth by the prosecution in the chargesheet that the appellant induced the complainant to indulge in physical relations under a false promise of marriage is neither corroborated nor established by the best evidence available on record, which is in the form of the statement of the complainant recorded under Section 164 CrPC.

21. Moreover, in her statement, the complainant has not uttered a single word which shows that she was maligned or abused by the appellant for belonging to a particular caste. Therefore, we are of the firm view that the ingredients of the offences alleged under the SC/ST Act, against the appellant are *ex-facie* not made out from the highest allegations as set out in the charge sheet.

22. In view of the above discussion, we are of the opinion that the present case appears to be one where a consensual physical relationship between two adults has turned sour due to certain intervening events. Hence, allowing the prosecution of the appellant for the offences mentioned above would tantamount to sheer abuse of the process of law and nothing else.

23. Resultantly, the summoning order dated 24th August, 2023 passed by learned Special Judge, SC/ST Act Gazipur, and all the

proceedings sought to be taken thereunder against the appellant for the offences punishable under Sections 376, 323, 504 and 506, IPC and Sections 3(1)(r), 3(1)(s), 3(2)(5a) and 3(2)(v) of the SC/ST Act deserve to be, and are hereby quashed. Thus, the impugned order is set aside.

24. The appeal is allowed, accordingly.

25. Pending application(s), if any, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

New Delhi;
January 22, 2025.