

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2248 OF 2023

Mr. Manoj Balasaheb Dhanavade
Age 30 years, Occ- Service,
Residing at Flat No. B 104,
Ratipushpagandh CHS Ltd,
near Bhavika School, Pakhadi,
Kharegoan, Kalwa, Thane 400605.

... Petitioner

V/s.

1. The State of Maharashtra,
(At the instance of Sahar Police Station)
Vide C. R. No. 246 of 2019

2. XYZ,
Age: around 34 years, Occ. Service
Residing at S No. 327, Old No. 22/7,
Chandrashekhhar Azad Road, Taluka
Gavipuram, Dist. Hanmantnagar
Banglore, South Karanatak 560019.

... Respondents

Mr. Arjun Kadam Advocate for Petitioner.
Mr. S. V. Walve, A.P.P. for the State.
P.I. Sushma Mali attached to the Sahar Police Station is present.

CORAM : RANJITSINHA RAJA BHONSALE, J.

DATE OF DECISION : 20th FEBRUARY 2026.

JUDGMENT :-

1) By the present Petition, filed under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, Petitioner seeks to quash and set aside the FIR/C.R. No. 246 of 2019 dated 26th June 2019,

registered with Sahar Police Station, Mumbai for the offence punishable under Sections 376 of the Indian Penal Code.

2) Heard. Mr. Arjun Kadam, learned Advocate for the Petitioner and Mr. S. V. Walve, learned APP for the Respondent No. 1-State. Perused the record and the additional Affidavit filed by the Petitioner dated 9th January 2026 so also the Affidavit in reply dated 2nd February 2026 of the Investigating Officer, Ms. Sushma Pandharinath Mali.

3) The record indicates that, efforts to serve Respondent No. 2 were made repeatedly, and even through the Investigating Officer, but Respondent No. 2 could not be served as, Respondent No. 2 was not available at the address mentioned in the cause title. Though, by an Order dated 28th March 2024, an Advocate from the Legal Aid Panel of the High Court Legal Aid Services Authority was appointed to represent Respondent No. 2, but he remained absent. Attempts were again made to serve Respondent No. 2 on or about 11th August 2025. The Affidavit dated 2nd February 2026, filed by Sushma P. Mali, Police Inspector, Sahar Police Station, indicates that, Respondent No. 2 had 10 criminal cases filed against her in different Police Stations in the Bangalore, Karnataka. That, Respondent No. 2, has 8 addresses and 5 mobile numbers out of which 2 mobile numbers are active. Based on her mobile numbers and information from her acquaintances, it was revealed that, Respondent No. 2 was residing in Basavanagudi area, Bangalore. The police team visited the home of Respondent No. 2. The mother of Respondent

No. 2 was present, but did not provide any information. Eventually, Respondent No. 2 was contacted on mobile number 7676022438 and on her email. Notice was sent and a station diary entry was made on 14th August 2025. Respondent No. 2 was not ready to accept the notice in person or through the local police station. From the Affidavit, it is clear that, Respondent No. 2 has been informed of the present proceedings and still choose not to appear in Court for the hearing. In such circumstances, the hearing, proceeded in her absence.

4) The prosecution story as alleged is as under:-

4.1) The FIR has been lodged by Respondent No. 2 for the offence punishable under Section 376 of Indian Penal Code. Since the year 2019, Respondent No. 2 is working in the State Bank of India, Home Loan Department. That, in or around May 2019 Respondent No.2 had booked a tour package with the Kesari Tours and Travels to Malaysia and Singapore. That, as the Petitioner was the tour manager for the said tour all official communications in respect of the tour were sent by the Petitioner from his mobile number 8097166520 to the Respondent No. 2.

4.2) On 16th June 2019, Respondent No. 2 for the first time met the Petitioner at the Chhatrapati Shivaji Maharaj Mumbai International Airport. That, there were about 40 tourists in the said tour. That, Respondent No. 2, being a solo tourist developed friendly relations with the Petitioner.

4.3) That, on 20th June 2019, Petitioner proposed marriage to

Respondent No. 2. That, Respondent No. 2 sought some time to think on the said proposal. That, Petitioner allegedly took Respondent No. 2 to his room on the pretext of showing the articles which the Petitioner had purchased. That, Petitioner hugged Respondent No. 2 from behind and despite her resistance, the Petitioner tried to molest her. That, the Petitioner did not listen to Respondent No. 2 and without her consent had intercourse with her. That, on 21st June 2019, in Singapore, Petitioner entered the room of Respondent No. 2 and had intercourse with her without her consent. That, Petitioner allegedly told her that he loved her and he would marry her.

4.4) That, on 22nd June 2019, Respondent No. 2 along with other tourist returned to Mumbai. That, when Respondent No. 2 asked the Petitioner about marriage, he refused. That, on 23rd June 2019, the sister of Petitioner along with her husband came to the Mumbai International Airport, when there was some heated discussion with Respondent No. 2. That, Respondent No. 2 repeatedly asked Petitioner to get married to her, failing which she would be constrain to file a complaint.

4.5) That, on 26th June 2019 the Petitioner intentionally took the Respondent No. 2 to the Marriage Registrar Office, for the registration of marriage under the Special Marriage Act. That, Respondent No. 2 was informed that, the marriage would take place after one month. That, from 25th June 2019, Petitioner cut contact with Respondent No. 2. That, Respondent No. 2 requested the Petitioner's sister to accompany her for the purpose of

making enquiry of a marriage as per the Hindu rites and rituals, but the Petitioner's sister refused. That, Respondent No. 2 filed the present FIR as there was no contact with the Petitioner.

5) Mr. Arjun Kadam, learned Advocate appearing for the Petitioner submits that:-

5.1) Respondent No. 2 started threatening the Petitioner that, if he did not marry her she would harm her life/commit suicide. In view thereof, Petitioner on 26th June 2019, filed an NC with the Kalwa Police Station against Respondent No. 2, under Section 506 of the Indian Penal Code,.

5.2) That, Kesari Tours and Travels company had made arrangement for the hotels at Singapore, in which hotel, the access to each floors/rooms was restricted only to the persons who had accommodation on the particular floor. That, unless access is given by the person staying on a particular floor, no person could even enter the floor. Therefore, the allegations made by Respondent No. 2 are completely false, concocted and a clear afterthought. The Petitioner could have entered the floor and consequently the room of Respondent No. 2 only on being granted access by Respondent No.2. That, whatsapp messages exchanged between the parties indicate that, access was given by Respondent No. 2.

5.3) That, Respondent No. 2 is a habitual complainant and has filed various complaints under Section 376 and 354 of the Indian Penal Code, against different individuals. Enquiries have now revealed that, Respondent

No. 2 had earlier contracted marriage on two occasions and had filed proceedings and complaints including under section 498A of the Indian Penal Code against both her husbands in the courts at Bangalore, Karnataka.

5.4) That, perusal of the complaints clearly indicates that, it is intention of Respondent No. 2 to harass the victims for reasons best known to her. That, Respondent No. 2 has lodged as many as 10 FIR's against various persons, including bank officials, Police Officers, Business persons, Tour Managers, as well as the present Petitioner. That, Respondent No.2, had also instituted two proceedings under Section 498-A against her husbands. According to the Petitioner the said complaints involve allegations under Sections 376, 420, 504, 506, 506-B, 323, 341, 307, 328, 354, 354-A & 417 of the Indian Penal Code.

5.5) Considering the conduct of Respondent No. 2, it would be clear that, Respondent No. 2 is in a habit of filing similar complaints of sexual harassment against different individuals. The *modus operandi* is also similar and therefore the present prosecution also becomes seriously doubtful. That, present FIR, is false and concocted one, and being filed with ulterior and malafide motives to pressurize and blackmail the Petitioner.

5.6) Respondent No. 2 has performed two marriages, filed matrimonial proceedings and is about 34 years and still proceeded to file the complaint under Section 376 on the ground of false promise of marriage. That, as Respondent No. 2 was married, it is possible that Respondent No. 2

may have also committed an offence under Section 494 of the Indian Penal Code. That, Respondent No. 2 has filed similar criminal prosecutions against the tour managers of tour companies, with whom she had booked a package tours. That, the mother of the said tour manager/victim had in fact filed a complaint against Respondent No. 2 with the Assistant Commissioner of Police, at Bangalore. Similar prosecutions have been lodged against police officer and bank officials.

5.7) That, Respondent No. 2 was married to one Mr. Manjunath B. in the year 2010 and resided in the State of Karnataka. That, in view of the said fact the Respondent No. 2 cannot be heard to say that she had fallen prey to promise of marriage. The fact that the Respondent No. 2 was married would be clear from the FIR bearing No. 400 of 2011 dated 16th July, 2011 registered with the Peenya Police Station, Bangalore for the offences punishable under Section 498-A read with Section 34 of the Indian Penal Code and Section 3 and 4 of Dowry Prohibition Act, 1961, which is placed on record by an Additional Affidavit.

5.8) That, considering the aforementioned facts and the various FIR's, the present case is a clear and classic example of abuse of process of law. That, a clear case is made out for exercising the power under Section 482 of the Code of Criminal Procedure to quash the present Complaint.

6) Mr. S. V. Walve, learned APP, appearing for the Respondent No.1-State submits that, a detailed Affidavit in reply dated 2nd February 2026, has

been filed by the Investigating Officer. That, pursuant to the Order dated 27th January 2026, the Investigating Officer has placed on record the steps taken by the Investigating Officer to serve the Respondent No. 2. That, the Investigating Officer in her Affidavit, has at the outset specifically stated that, the Respondent No. 2 had avoided service in the matter. That, the Respondent No. 2 had eight addresses, which were traced from the 10 criminal cases which have been filed against her in various Police Stations in Bangalore, Karnataka.

6.1) That, efforts to serve Respondent No. 2 on various addresses and mobile numbers have failed. That, the mother of Respondent No. 2 refused to open the door of the house i.e. Room No. 05/01, Sannidhi Road, behind Meghashyam, Kansorbency Road, Basavanagudi, Bangalore, Karnataka 560004 and did not give information of Respondent No. 2. That, surprisingly Respondent No. 2 called the Investigating Officer and asked to send the notice on whatsapp number 7676022438 and Email I.D. deepikayg@yahoo.com. That, the notice has been sent and a station diary entry is made. The Respondent No. 2 did not accept the notice in person. That, all possible efforts to trace and serve Respondent No. 2 have been made.

6.2) That, there are 10 cases are filed by Respondent No. 2 for various offences wherein Respondent No. 2 has given 5 mobile numbers and atleast 6 to 7 different addresses. That, in the peculiar facts of the present case the Court was requested to pass appropriate Orders.

7) Perused the entire record and the Additional Affidavit filed by the Petitioner so also the Affidavit in reply filed by the Respondent-State.

8) It will be useful in the first instance, to list the criminal prosecutions filed by Respondent No.2 against various individuals and the result of the said prosecutions. They are are under:-

Sr. No.	First Information Report	Result (if any)
1.	FIR No. 400/2011 dated 16.07.2011 registered with the Peenya Police Station, Bangalore, Karnataka on 16.07.2011 for offences punishable under Sections 498 A read with Section 34 of the Indian Penal Code, 1860 (IPC) and Sections 3 and 4 of the Dowry Prohibition Act. Complaint is in respect of the First marriage. (Copy of FIR is at Page 89-95 at Additional Affidavit)	Acquittal by competent court vide Judgment and Order dated 27.03.2018. [Reference made by Hon'ble Karnataka High Court. Page No. 224 of the Additional Affidavit]
2.	FIR bearing No. 297/2015 registered with Subramanyapura Police Station, Bangalore city, Karnataka on 22.04.2015 for offences punishable under Section 376, 420, 504 and 506 of the IPC. [Matter pertains to a case of false promise of marriage during a tour to North India] (Copy of FIR is at Page 96-115 at Additional Affidavit)	
3.	FIR bearing No. 44 of 2015 registered with Shankarapura Police Station, Bangalore City, Karnataka on 14.06.2015 for offences punishable under Sections 504, 506-B, 323, 341 r/w 34 of the IPC. (Copy of FIR is at Page 116-125 at Additional Affidavit)	Acquittal by Court vide Judgment and Order dated 08.11.2022 [Reference made by Hon'ble Karnataka High Court. Page No. 225 of the Additional Affidavit]
4.	FIR bearing No. 41 of 2017 registered with Sheshadripuram Police Station, Bangalore City, Karnataka on 26.04.2017 for offences punishable under Sections 376, 307, 323, 328, 354, 420 r/w 34 of the IPC.	

	(Copy of FIR is at Page 126-135 at Additional Affidavit)	
5.	The Complainant proceeds to register her fifth FIR i.e. the FIR bearing C.R. No. 246 of 2019 dated 26 th June 2019 registered with Sahar Police Station against the present Petitioner. [Second case based on false promise of marriage during a tour to Malaysia and Singapore] (Impunged FIR)	
6.	FIR bearing No. 17 of 2020 dated 05.02.2020 registered with Chickballapura Circle Police Station, Karnataka for offences punishable under Section 376 of the IPC. [Third case based on false promise of marriage.] (Copy of FIR is at Page 136-151 at Additional Affidavit)	Acquittal by competent Court vide Judgment and Order dated 05.09.2023. [Reference made by Hon'ble Karnataka High Court. At page no. 229 of the Additional Affidavit]
7.	FIR bearing No. 20 of 2020 dated 29.02.2020 registered with Basavanagudi Police Station, Karnataka for offences punishable under Section 354, 504 and 506 of the IPC. (Copy of FIR is at Page 152-162 at Additional Affidavit)	
8.	FIR bearing No. 82 of 2020 dated 11.11.2020 registered with Dharmasthala Police Station, Karnataka for offences punishable under Section 376 and 323 of the IPC. [Fourth case based on false promise of marriage by a police officer] (Copy of FIR is at Page 163-172 at Additional Affidavit)	
9.	FIR bearing No. 157 of 2021 dated 16.09.2021 registered with Kalasipalya Police Station, Karnataka for offences punishable under Section 354-A, 417, 504 and 506 of the IPC. [Fifth case based on false promise of marriage by a bank officer]. (Copy of FIR is at Page 173-183 at Additional Affidavit)	
10.	A complaint under Section 376 of the IPC against a business partner, to whom later	

	she gets married and registers the FIR below at item no. 11 of the table.	
11.	FIR bearing No. 48 of 2022 dated 22.09.2022 registered with Kushalnagar Circle Police Station, Karnataka for offences punishable under Sections 498-A, 323, 506, 504 read with 149 of the IPC. Complaint is in respect of the Second marriage. (Copy of FIR is at Page 184-194 at Additional Affidavit)	Entire proceedings quashed by the Hon'ble Karnataka High Court vide Judgment and Order dated 03.09.2024. [Page no. 195 of the Additional Affidavit]

9) The aforesaid table prepared on the basis of the record indicates that, Respondent No. 2 has filed as many as 10 FIR's including the present FIR against several persons since the year 2015. Out of 10 prosecutions filed by Respondent No.2, FIR No. 400 of 2011 (First FIR) dated 16th July 2011, registered under Section 498A read with Section 34 of the Indian Penal Code. The same implies that, Respondent No. 2 was already married. The Accused therein have been acquitted by an Order dated 27th March 2018, as Respondent No.2 did not turn up to give evidence. The acquittal order has been referred to in the judgment passed by the Karnataka High Court in Criminal Petition No. 1364 of 2023.

10) The FIR bearing No. 297 of 2015 (Second FIR) dated 22nd April, 2015 is registered with the Subramanyapura Police Station, Bangalore City, Karnataka for offences punishable under Section 376, 420, 504 and 506 of the Indian Penal Code. The said FIR is based on identical facts wherein the Respondent No. 2 has alleged to have met the accused Mr. Santosh on a tour. That, Mr. Santosh made a false promise of marriage and accordingly forcibly

had intercourse with her.

11) The FIR No. 44 of 2015, (Third FIR) dated 14th June 2015, registered with Shankarapura Police Station, Bangalore city, Karnataka is for the offence punishable under Section 504, 506-B, 323, 341 read with 34 of the Indian Penal Code. The accused therein have also been acquitted vide Judgment and Order dated 8th November 2022, as Respondent No.2 failed to remain present.

12) The FIR bearing No. 0041 of 2017, (Fourth FIR) dated 26th April 2017 is registered with Sheshadripuram Police Station, Bangalore City on allegation that, Respondent No. 2 was subjected to forcible sexual intercourse by Mr. Kumar Gowrav.

13) The Respondent No.2 proceeded to register her (Fifth FIR) i.e. the present FIR bearing C.R. No. 246 of 2019 dated 26th June 2019 registered with Sahar Police Station under section 376 of the Indian Penal Code against the present Petitioner (Impugned FIR).

14) On 26th June 2019, the Respondent No. 2 proceeded to register FIR bearing No. 17 of 2020 (Sixth FIR) dated 5th February 2020 registered with the Chikkaballapur Circle Police Station, Karnataka for the offence punishable under Section 376 of the Indian Penal Code. The accused therein have also been acquitted as Respondent No.2 did not remain present to give evidence. The Order of acquittal has been referred in the Judgement and Order passed by the Karnataka High Court by Judgment dated 5th September

2023. I have noted that, the said FIR is filed under Section 376 of the Indian Penal Code, is in the similar set of facts and circumstances. In the said FIR, the contention of Respondent No. 2 was that, while she had gone to book a ticket for visiting Russia, at that time she got introduced to Mohammed Naajim. That, Mohammed Naajim called her through WhatsApp and told her that he is in love with her. Thereafter, she also started loving him. That, Mohammed Naajim took her to some place and had forceful a sexual intercourse with her. That, Mohammed Naajim told her that, she would have to live with him for 4 years, after which he will marry with her. The allegations primarily are similar i.e promise to marry as in the FIR impugned in this Petition.

15) After about 24 days, on 29th February 2020, Respondent No. 2 registered an another FIR (Seventh FIR) bearing C.R. No. 20 of 2020 dated 29th February 2020, with the Basavanagudi Police Station, under section 354, 504 and 506 of the Indian Penal Code, alleging sexual and physical assault on her.

16) On 11th November 2020, Respondent No. 2 FIR bearing C.R. No. 82 of 2020 (Eight FIR) registered with Dharmasthala Police Station, Karnataka for the offences punishable under Section 376 and 323 of the Indian Penal Code, alleging to have fallen prey to a false promise of marriage by one Mr. Vishwanath. It is alleged that Mr. Vishwanath subjected her to sexual intercourse by force. I find that again the allegations are similar to other FIR's.

17) On 16th September 2021, Respondent No. 2 registered FIR bearing No. 157 of 2021 (Ninth FIR) dated 16th September 2021, with Kalasipalya Police Station, Karnataka for offence Punishable under Section 354-A, 417, 504 and 506 of the Indian Penal Code alleging sexual harassment and forcible intercourse under the pretext of false promise of marriage by one Mr. Abhishek Adiga.

18) FIR bearing No. 48 of 2022 (Tenth FIR) dated 22nd September 2022 was registered with Kushalnagar Circle Police Station, Karnataka for the offence punishable under Section 498-A, 323, 506, 504 read with 149 of the Indian Penal Code against Mr. Viveka P. K. and his family members is quashed and set aside by the Hon'ble Karnataka High Court by its Order dated 3rd September 2024. It be noted that, the Respondent No. 2 had filed this FIR in respect of her second marriage.

19) The record indicates that, by the Order dated 3rd September 2024, passed by the Karnataka High Court in Criminal Writ Petition No. 1364 of 2023, the Karnataka High Court has directed the Director General of Police, Karnataka State and Inspector General of Police, Karnataka State to take necessary steps against Respondent No. 2 thereby to prevent future course of abusive complaints by Respondent No. 2. In the aforementioned facts, the present case of a false promise to marry, prima facie appears to be doubtful, misleading and filed for oblique motives. The said prima facie finding is fortified by the fact that Respondent No.2 though aware of the present

proceedings and hearing has chosen to remain absent. The malafide intentions are writ large on the face of the record. The conduct of Respondent No.2, prima facie appears to be malafide and her acts a complete abuse of the process of law.

20) The first FIR bearing No. 400 of 2011 registered on 16th July 2011 registered with the Peenya Police Station, Bangalore, Karnataka for the offence punishable under Section 498A read with Section 34 of the Indian Penal Code was in respect of the Respondent No. 2's marriage. In the said proceedings the accused have been acquitted. It is thus clear that, as on 16th July 2011 the Respondent No. 2 was already a married women. The present FIR is filed on 26th June 2019. FIR No. 48 of 2022, was also filed by Respondent No.2 under Section 498A, 323, 504, 506 and 149 of the IPC. The said FIR has been quashed by the Karnataka High Court. At least one aspect, which clearly emerges from the aforesaid facts is that, Respondent No. 2 has been married on at least two occasions. That, proceeding under Section 498A of the IPC filed by her have been quashed. Further, Respondent No. 2 has filed criminal prosecutions being FIR Nos. 297 of 2025, FIR No. 44 of 2015, FIR No. 0041 of 2017, FIR No. 17 of 2020, FIR No. 20 of 2020, FIR No. 82 of 2020 and FIR No. 157 of 2025 under sections 323, 341, 354, 354A, 376, 504, 506 and 506B of the Indian Penal Code. The said FIR's are based on same or similar facts. The modus operandi is the same. The malicious and malafide modus operandi of Respondent No.2 is writ large and clear. In most of the

criminal proceedings, Respondent No.2 has chosen to remain absent and has failed to prosecute the criminal proceedings any further.

21) A useful reference can be made to the Judgment of the Hon'ble Supreme Court in the case of *State of Haryana V. Bhajan lal reported in 1992 Suppl (1) SCC 335*, wherein the Hon'ble Supreme Court has observed 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 give 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)

22) The Hon'ble Supreme Court in the case of *Pramod Kumar Navratna Vs. State of Chattisgarh & Ors. (SLP(CRL.) No. 4452 of 2025)* has observed that :-

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

20. *In other words, the law prohibits bigamous unions and therefore disallows parties from entering into a second marriage during the subsistence of their first marriage. It is, therefore, difficult to accept the view that the complainant-respondent No.3, who herself is an advocate, was oblivious to the said settled position of law and hence was duped and induced by the accused- appellant into having sexual relations with him on different occasions on the pretext of marriage especially when both the parties were cognizant of the marital status of the complainant- respondent No.3.*

21. *At this juncture, it is also pertinent to mention that the complainant-respondent No.3 is a thirty-three years old woman and an advocate by profession and not a naïve or gullible woman incapable of taking decisions for herself. It would be remiss not to mention, at the cost of repetition, that the complainant- respondent No.3 is herself an advocate and therefore she should have exercised her prudence and discretion before engaging the already burdened State machinery into a roving criminal litigation.*

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 i.e. 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 vs. 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. ..."

23) In respect of the present proceedings and Respondent No.2, it is necessary to keep in mind the fact that Respondent No. 2 has totally filed 10 FIR's against different persons, out of which at least four criminal prosecutions are in respect of section 376 of the Indian Penal Code, wherein the allegations are same or similar in at least two criminal prosecutions. Further, two criminal prosecutions pertain to offences of sexual assault and are similar in nature. I have also noted that, in most of the criminal prosecutions, Respondent No.2 has chosen to remain absent for reasons best know to her. In the aforstated facts and circumstances, I am of the clear view that, clause 5 and 7 of the Judgment of the Hon'ble Supreme Court in the case of *Bhajanlal (Supra)*

would become applicable to be present case in hand. While considering the Petition for quashing of the present Criminal proceedings/FIR it is very important to keep in mind the fact that, Respondent No. 2 on the date of filing of the FIR had already being married and matrimonial related disputes were raised earlier. The said facts for obvious malafide and dishonest reasons have been suppressed in the present FIR. On perusal of FIR and the Order passed by the High Court of Karnataka, it would be clear that, Respondent No. 2 has initiated Criminal Proceedings which are manifestly attended with mala fide and/or are proceedings which are dishonestly and maliciously instituted with a ulterior motive of harassing and pressuring the accused therein, may be, to accede to the unjust demands of Respondent No.2. Considering the conduct of Respondent No.2 in filing proceedings and remaining absent at the hearings, one cannot rule out the possibility of Respondent No.2 blackmailing the accused/victims. A perusal of the aforesaid criminal proceedings and the complaint filed therein would indicate that, Respondent No. 2 was a married lady in as much as she has filed two complaints under Section 498-A of the Indian Penal Code. The first being FIR No. 400 of 2011 dated 16th July 2011 and the second being FIR bearing No. 48 of 2022 dated 22nd September 2022. In the intervening period, i.e. between 16th July 2011 to 22nd September 2022, Respondent No. 2 has filed criminal prosecutions against various persons for offences punishable under Section 376, 420, 504, 504-B, 506, 323, 341, 307, 328, 420, 354-A, 417 read with Section 34 of the Indian Penal Code. Out of

the said FIRs, four complaints/FIRs have been filed under Section 376 of the Indian Penal Code and, including the present FIR, the total number of such FIRs is five. Further two complaints have been filed under Section 354 and 354A of the IPC out of which in one complaint, the accused has been acquitted. The aforementioned facts would indicate that, Respondent No. 2 is in habit of making false and baseless complaints in respect of Section 376, 354 and 354A of the Indian Penal Code.

24) It prima facie appears that, the present proceedings have also been filed with the sole aim and objective to harass the Petitioner and possibly with the view to blackmail/extort monies from the Petitioner. Perusal of the FIR, independently and also in the backdrop of the other criminal proceedings initiated by Respondent No. 2 would make it clear that the present proceedings are not bona fide proceedings. It appears that, Respondent No. 2 is in habit of making serious, but false and reckless allegations against different persons for the reasons best known to her. Pertinent to note that, Respondent No.2 after filing of the criminal proceedings, has chosen not to attend and prosecute the same. Perusal of the Judgment of the Karnataka High Court indicates that Respondent No.2 has remained absent during the criminal proceedings and the same is recorded in its judgment.

25) Even otherwise, if one were to consider the present FIR independently of the other criminal prosecution, which has been initiated by the Respondent No. 2, it would be clear that, the case of the Respondent No. 2

is that physical relations were established based on the promise to marry. The facts of the present case would indicate that, it is the case of sexual relationship between two adult consenting parties. Further, it is the case of Respondent No. 2 herself that, Petitioner and Respondent No. 2 had gone to office of the Marriage Registrar for registering the Marriage under the Special Marriage Act and on making enquiry they were informed that it would take period of one month for registering the marriage. If the said statement of Respondent No. 2 is to be accepted, it could be safely inferred that, though the parties were ready to get married due to some intervening circumstances/facts both or one of them decided otherwise.

26) Pertinent to note that, the fact that Respondent No. 2 was already married cannot be disputed. Respondent No. 2 is 34 year old working women, who has travelled extensively. Respondent No. 2 herself is a married women and had relationship with the Petitioner and similarly with other men as alleged in the FIR's. The conduct of Respondent No. 2 makes her entire case doubtful and improbable. It is well settled that, in the case of false promise, the accused right from the beginning should have had no intention to marry the Complainant and would have cheated the Complainant by giving her false promise to marry her only with the view of satisfying his need/lust. Whereas in a case of breach of promise of marriage, one cannot deny the possibility that, the accused might have given promise with all seriousness to marry her and subsequently might have encountered certain circumstances beyond his

control which prevented him from fulfilling his promise. Even assuming that, the allegation in the FIR are correct, one would have to keep in mind that, the mere fact that the parties indulge in a physical relationship pursuant to promise to marry will not and cannot amount to rape in every case. An offence of rape under IPC would be made out only if the promise of marriage would made by the accused solely with view to obtaining sexual relationship without having any intend to fulfilling the promise from the very beginning itself. The question which would arise and need to be answered is that whether the false promise of marriage have a direct bearing on the prosecutrix giving her consent for sexual relationship.

27) In the present case, while answering the aforesaid question the following facts assume extreme importance i.e. (i) Respondent No. 2 was married on two previous occasions (ii) that even according to Respondent No.2, efforts were made to get the marriage registered under the Special Marriage Act (iii) after considering the various FIR filed by Respondent No. 2 under Section 376 and Sections 354 and 354-A against different individuals it would be clear that the present FIR is nothing but a dishonest and malafide attempt to harass the Petitioner. Upon considering all the FIR's which have been referred by the Petitioner so also the present FIR it can be safely concluded that, the present prosecution, is filed with the malafide motives. Perusal of the other criminal proceedings filed by Respondent No. 2 would infact show the malafide and criminal mischievous intend of the Respondent

No.2 herself.

28) On a careful consideration of the aforesaid material, I am of the clear view that, the offence alleged against the Petitioner is not at all made out. No case made out against the Petitioner. This is a classic case of malafide and malicious misuse of the process of law for personal benefit. Considering other criminal proceedings and more particularly on perusal of the FIR's, I find that the allegation of rape on false pretext of marriage even if when taken on its face value cannot amount to the offence of rape. Categories 5 and 7 of the case of *State of Haryana V. Bhajan lal (supra)* squarely applies to the facts of the present case. I am of the view that, it would neither be just or in the interest of justice to permit the present prosecution/FIR or any investigation in respect thereof to continue.

29) The power under Section 482 of the Code of Criminal Procedure is an inherent power of the Court to make such Orders as are necessary to give effect to any order under the Code of Criminal Procedure or to prevent the abuse of the process of any court or otherwise secure the ends of justice. It is well settled that the extraordinary power under Section 482 have to be exercised sparingly cautiously and should under no circumstances be resorted to like a remedy of an appeal or revision.

30) Considering the facts of the present case, I am clearly of the view that the powers for quashing criminal proceedings under Section 482 can be and ought to be exercised in the present case particularly in view of the fact

that the Respondent No. 2 has misused and thoroughly abused the process of law.

31) I also deem it appropriate to direct the Director General of Police State of Maharashtra to ensure that, all Police Stations in the State of Maharashtra are provided with the details of the Complainant/Respondent No.2 as well as the various complaints filed by her so as to make them available on the record and on the data base of each Police Station in the State. This is done only with the objective to ensure that, Police Authorities while acting in accordance with law are cautious in case of any complaint received from Respondent No. 2 seeking registration of a crime against any other individual.

32) Considering the conduct of the Respondent No. 2, I find it appropriate to direct the Police Stations that, in the event any complaint is received from Respondent No. 2 seeking registration of FIR, they shall act strictly in accordance with law and conduct preliminary inquiry before registering the crime. I am constrain to give this direction considering the facts and circumstances of the present case. A similar direction has passed by the Karnataka High Court by its Order dated 3rd September 2024 in Criminal Petition No. 1364 of 2023.

33) In view of the above, the following Order is passed.

(i) Petition is allowed in terms of prayer clause (a) and (b).

[RANJITSINHA RAJA BHONSALE, J.]