



2026:KER:67015

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY, THE 3RD DAY OF SEPTEMBER 2026 / 12TH BHADRA, 1948

CRL.MC NO. 4354 OF 2026

CRIME NO.1440/2025 OF Kovalam Police Station,

Thiruvananthapuram

PETITIONER/ACCUSED:

HABIBUR RAHMAN

AGED 31 YEARS

S/O FAJAR ALI, RESIDING AT VIII/TOWN-JARANG PATHAR,
P.S. HOJAI, SUB DIVISION-HOJAI, PADUMPUKHURI P.O.,
JORANG PATHER, HOJAI, ASSAM, PIN - 782435

BY ADVS.

SHRI.MITHUN P.

SHRI.AFSAL KHAN H.

SMT.MERIN THOMAS

RESPONDENTS/COMPLAINANT (STATE) AND DE FACTO COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

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SMT. MEGHA K. XAVIER, SR. P.P.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
02.09.2026, THE COURT ON 03.09.2026 PASSED THE FOLLOWING:



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ORDER

This petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "BNSS") by the sole accused in Crime No.1440/2025 of Kovalam Police Station, registered alleging commission of the offences punishable under Section 69 of the Bharatiya Nyaya Sanhita, 2023 (for short, "BNS") and Section 66E of the Information Technology Act, 2008, seeking an order quashing the FIR and all further proceedings pursuant thereto in the said case.

2. The prosecution case in brief is that the accused made a false promise to marry the de facto complainant and on 03.11.2025 at 12:00 noon took her to a hotel at Kovalam and had sexual intercourse with her after mixing some sedatives in the food given to her. Moreover, the accused took nude photographs of the de facto complainant and sent those photos to her through WhatsApp Messenger. Thus, the accused is alleged to have committed the above-said offences.

3. The learned counsel for the petitioner submitted that the disputes between the petitioner and the de facto complainant have been amicably settled and that the de facto complainant is no longer interested in proceeding with the case. Likewise, the de facto complainant, who is the victim of the offence, has filed an affidavit stating that at the intervention of the petitioner's



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family members, the matter involved in this case has been amicably settled. In the affidavit, she also sought an order quashing the criminal proceedings against the petitioner.

4. The learned Senior Public Prosecutor, upon instructions from the Investigating Officer, submitted that the dispute between the parties has been settled and the de facto complainant is no longer interested in continuing the prosecution against the petitioner.

5. While considering the question as to whether the relief of quashing the final report on the basis of the settlement arrived at between the parties can be allowed, it is to be noted that the present case is registered alleging that the petitioner subjected the de facto complainant to sexual intercourse after making a promise to marry her, allegedly without any intention of fulfilling such promise. Undisputedly, the offence alleged in the present case is grave and serious in nature. Therefore, the matter cannot be treated as a purely private dispute, as it also involves an element of societal interest. Consequently, the criminal proceedings cannot be quashed solely on the ground of the settlement arrived at between the parties.

6. Accordingly, this Court has also considered the merits of the allegations against the petitioner. As already noticed, the principal offence alleged against the petitioner is under Section 69 of the Bharatiya Nyaya



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Sanhita, 2023 (BNS). Section 69 of the BNS provides that whoever, by deceitful means or by making a promise to marry a woman without any intention of fulfilling the same, has sexual intercourse with her, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

7. However, in the present case, it is undisputed that the de facto complainant is a married woman and has two children. It is further evident from the First Information Statement (FIS) given by the de facto complainant, on the basis of which the present case was registered, that her husband is alive. In such circumstances, a married woman who voluntarily accompanies another man to a hotel room and has sexual intercourse with him cannot, merely on the basis of an allegation of a promise of marriage, contend that the sexual relationship was induced solely by such promise, particularly when her subsisting marriage was not in dispute.

8. Therefore, even if the allegations contained in the FIS are taken at their face value and accepted in their entirety, the essential ingredients required to constitute an offence under Section 69 of the BNS are not made out. In the circumstances of the present case, it cannot be said that the consent for the sexual relationship was induced by any false promise to marry the de facto complainant or by any other deceitful means. Consequently, the



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materials placed on record do not disclose the commission of an offence under Section 69 of the BNS.

9. Likewise, in view of the settlement arrived at between the parties, the possibility of a successful prosecution is remote and bleak. The continuation of the criminal proceedings would serve no useful purpose and would only amount to an abuse of the process of law.

In the result, this petition is allowed. The FIR in Crime No.1440/2025 of Kovalam Police Station and all further proceedings pursuant thereto, as against the petitioner/accused, are hereby quashed in exercise of the powers conferred under Section 528 of the BNSS, 2023.

Sd/-

**JOBIN SEBASTIAN
JUDGE**

v dv

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APPENDIX OF CRL.MC NO. 4354 OF 2026

PETITIONER ANNEXURES

Annexure A2

TRUE COPY OF THE ORDER DATED 20.12.2025 IN
CRL.M.C.NO.3644/2025 PASSED BY THE
ADDITIONAL SESSIONS JUDGE-VI,
THIRUVANANTHAPURAM