



2026:AHC-LKO:68040

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL REVISION No. - 566 of 2025

Rakesh Rathore

.....Revisionist(s)

Versus

State of U.P. Thru. Addl. Chief Secy. Home/Prin. Secy. Home Lko and another

.....Opposite Party(s)

Counsel for Revisionist(s)	: Nadeem Murtaza, Arun Sinha, Purnendu Chakravarty, Siddhartha Sinha, Wali Nawaz Khan
Counsel for Opposite Party(s)	: G.A., Abhilasha Rastogi, Priyanka Singh

A.F.R.

Court No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Arun Sinha and Sri Purnendu Chakravarty Senior Advocates assisted by Sri Nadeem Murtaza and Sri Wali Nawaz Khan Advocates, the learned counsel for the revisionist, Sri Vinod Kumar Shahi Senior Advocate and Additional Advocate General, assisted by Sri Anurag Verma, the learned Additional Government Advocate-I for the State and Sri Prashant Singh Atal Senior Advocate assisted by Ms. Priyanka Singh Advocate, the learned counsel for the complainant-opposite party no.2.

2. By means of the instant revision filed under Section 442 of the Bhartiya Nagrik Suraksha Sanhita (hereinafter referred to as 'BNSS'), the revisionist has challenged the validity of an order dated 05.05.2025 passed by the learned Additional District & Sessions Judge, F.T.C. (O.A.W.), Sitapur in Sessions Trial No. 424/2025 (State v. Rakesh Rathore) arising out of Case Crime No. 16 of 2025, under Sections 64(2), 351(3), 127(2), 69 of Bhartiya Nyaya Sanhita (hereinafter

referred to as 'BNS'), Police Station Kotwali, District Sitapur, whereby the revisionist's application seeking discharge, has been rejected.

3. Briefly stated, the facts of the case are that the opposite party no. 2 gave a written complaint to the Superintendent of Police, Sitapur, on the basis whereof an FIR No. 16/2025 was lodged on 17.01.2025 in Police Station Kotwali, District Sitapur stating that she came in contact with the revisionist in the year 2018 while he was a Member of Legislative Assembly of the State. The revisionist proposed a political alliance and partnership with the complainant under his protection. The complainant accepted the proposal and started participating in political activities. After some time, the revisionist got the complainant appointed as the District Chairperson – Women, of Tailik Mahasangh, Sitapur (of which the revisionist was the National Chairperson). Thus, an intimacy developed between the complainant and the revisionist and the complainant started having immense trust upon him. The revisionist called the complainant at about 01:00 p.m. in the month of March, 2020 and he raped her inside his house. The revisionist blackmailed the complainant and made a false promise that he would divorce his wife and make the complainant his life partner and that he will ensure her political upliftment. Thereafter, the revisionist repetitively made physical relations with the complainant. When the revisionist got elected as a Member of Parliament in the year 2024, he called the complainant to his house at about 09:00 a.m. on 24.08.2024, forcibly made her sign some blank papers and said that she would live as his concubine, otherwise he would defame her.

4. In the statement of the complainant recorded under Section 180 BNSS, she reiterated the FIR version and she also stated that she was a married woman aged about 49 years and she further stated that the revisionist was directly and indirectly exploiting and defaming her, and she and her family members were afraid.

5. The medico-legal examination of the complainant/prosecutrix was conducted on 17.01.2025 in the District Women Hospital, Sitapur, in the presence of her son, who has signed the medico-legal examination report as a witness. While narrating the incident to the doctor, the complainant told that she had met the revisionist in a program in the year 2018 and thereafter she started visiting his home. In the year 2019, she was made the District Women President of Tailik Samaj. She had visited the revisionist's home at about 1:00 p.m. in the month of March 2020. The revisionist was alone, he closed the room from the inside and

forcibly committed misdeed against her. Thereafter, the revisionist told her that he would divorce his wife and marry the complainant. The complainant kept quiet under fear of her public honour. The revisionist again called her to his home on 24.08.2024 and made her sign some blank papers. In the intervening period, he had committed the misdeed with the complainant on numerous occasions and had threatened to defame her.

6. It is mentioned in the medico legal examination report that the doctor has opined that “on the basis of physical examination, pathological report, academic report, her D.O.B is 20.04.1975, her age is about 49 years and ten months. There are no signs of use of force, no recent forceful penetration injury is found and sexual violence cannot be ruled out.”

7. The Investigating Officer recorded the statement of the complainant’s husband. He reiterated the FIR version and he also stated that after the complainant had accepted the revisionist’s proposal of protection and alliance and had started participating in political activities, the revisionist made the complainant the District Chairperson of Tailik Mahasabha, Sitapur, increased his proximity with her and he started alluring her to uplift her politically. He started calling her to his house at any time quite often and the complainant started visiting the revisionist’s house quite frequently and he used to call her even late in the nights and at times, the complainant used to return home in the morning. When the complainant returned from the revisionist’s home on 24.08.2024 during day time, she told her husband that the revisionist had forcibly made her sign some blank documents and told her that she would live as his concubine, else he would defame her. Slowly, their children and daughter-in-law also came to know about the misdeeds committed by the revisionist and all the family members gave her courage and made her believe that the entire family was with her. A verbatim statement was given by the complainant’s son also.

8. The investigating officer recorded the statement of the revisionist also who stated that he was aged 60 years and he denied all the allegations levelled against him.

9. The statement of the prosecutrix under Section 183 BNSS was recorded on 17.01.2025, wherein she reiterated the FIR version and she further stated that the revisionist was threatening to defame the complainant and her family members

and to demolish her school. The complainant also alleged that the revisionist, through some of his henchmen, had threatened her that if she did not enter into an illicit relationship with him, he would have her school and house demolished.

10. The police took in possession a mobile phone of the complainant's daughter-in-law, which contained an audio recording of a telephonic conversation that took place on 26.08.2024 between the revisionist and the complainant. A transcript of the telephonic conversation between the complainant and the revisionist, is a part of the case diary which shows that the complainant had made a phone call to the revisionist and she asked the revisionist whether he would keep her after marrying her, as she was not a promiscuous woman. The conversation refers to an earlier incident when the complainant had gone to the revisionist's home but the latter called her children and sent her back home and the complainant repetitively objected against it. The revisionist said during the conversation that he was not declining the demand of the complainant, but there were some obstacles.

11. During the mobile conversation, the complainant addressed the revisionist's wife as "Neelam Aunty" and said that the revisionist ought to have said in her presence that he was having physical relations with the complainant for the past five years and he ought to have told his wife that he would marry her. Upon this, the revisionist expressed an apprehension that the complainant was making the phone call from the mobile phone of her daughter-in-law and the call would be recorded, which the complainant categorically denied.

12. The complainant asked the revisionist that both of them were making physical relations for the past five years as the revisionist had promised to marry her and the revisionist should divorce his wife, send her to Etawah and keep the complainant with her respectfully as his wife, the revisionist replied that whatever the complainant was saying was correct.

13. On 11.02.2025, the Investigating Officer recorded an additional statement of the complainant wherein he put a question that she had not mentioned about her divorce and whether she would have married the revisionist without having divorced her husband, to which she replied that the revisionist used to tell her that divorce between him and his wife was difficult, but as he was an influential person, he would get the complainant divorced within two minutes.

14. The Investigating Officer recorded another additional statement of the complainant on 10.03.2025, wherein she reiterated both her earlier statements recorded by the Investigating Officer. The investigating officer has mentioned that the complainant's statement was affirmed by her husband and other family members, but the names of the other family members have not been mentioned.

15. After investigation, the Investigating Officer submitted a charge sheet dated 10.03.2025 against the revisionist for offences under Sections 64(2), 69, 351(3), and 127(2) of the BNS. The trial court took cognizance of the offences and summoned the revisionist to face trial.

16. The revisionist filed an application seeking his discharge on 30.04.2025 wherein he *inter alia* stated that the statements recorded under Sections 180 and 183 BNSS only establish a consensual relationship between the parties. The recording of the telephonic conversation between the complainant and the revisionist reveals that the complainant used to have sexual intercourse with the revisionist upon the latter's promise that he would marry her and it also shows that both of them loved each other. The application further highlighted the fact that the complainant is a married lady, aged 49 years. She is the mother of three grown-up and married children. She knew that the revisionist was having a subsisting marriage, in spite of that she repetitively made physical relations with him, which amounts to a consensual relationship being aware of all the consequences thereof.

17. It was also stated in the application that there were inconsistencies in the version of the FIR and the statements recorded under Sections 180 and 183 BNSS and the prosecutrix had improved her story. Lastly, it was contended in the discharge application that the revisionist has been elected as a Member of Parliament on a ticket of an opposition party, after defeating a senior leader of the ruling party who has been a Member of Parliament several times. The revisionist expressed an apprehension that the Investigating Officer acted under the influence of the ruling party and he did not collect any independent evidence - medical or forensic, to support the allegation of rape.

18. The complainant or the State did not file any written objections against the discharge application and the learned Special Public Prosecutor and the counsel for the complainant orally submitted that the contents of the FIR and the statement of the prosecutrix recorded under Section 180 and 183 BNSS clearly allege that

the revisionist had raped and blackmailed her on the strength of his political influence that the other witnesses have supported the statements of the prosecutrix and the Investigating Officer has taken on record the conversation between the complainant and the prosecutrix through a mobile phone, which also establishes the prosecution case. The learned counsel for the revisionist had relied upon a judgment of the Hon'ble Supreme Court in the case of **Bishwajyoti Chatterjee vs State of West Bengal and another**: 2025 SCC OnLine SC 741.

19. The trial court held that the allegations contained in the FIR and the statements of the prosecutrix recorded under Section 180 and 183 BNSS, as well as the statements of the other witnesses recorded under Section 180 BNSS, have led to filing of a charge sheet against the revisionist for offences under Section 64(2), 351(3), 127(2), and 69 BNS. Without referring to the principle laid down by the Hon'ble Supreme Court in the case of **Biswajyoti Chatterjee** (supra), the trial court held that the aforesaid judgment does not apply to the facts of the present case. The trial court referred to the decision of the Hon'ble Supreme Court in the cases of **P. Vijayan vs State of Kerala**: AIR 2010 Supreme Court 663, **M.E. Shivlinga Murthi vs. CBI**: 2020 (2) SCC 768 and **State (NCT of Delhi) v. Shiv Charan Bansal**: (2020) 2 SCC 290, wherein it has been held that at the time of framing of charges, the probative value of the material on record cannot be gone into and the material brought on record by the prosecution has to be accepted as true and that at the stage of framing of charges, submission of the accused is to be confined to the material produced by police and that the court is required to evaluate the material and documents on record with a view to point out if facts emerging therefrom taken at their face value disclose the ingredients constituting the alleged offence. At this stage, there cannot be a roving inquiry into the pros and cons of the matter and evidence is not to be weighed as if the trial is being conducted.

20. The trial court accordingly found that there was no sufficient ground for discharging the accused and rejected the discharge application by means of the impugned order dated 05.05.2025 and fixed the matter for 13.05.2025 for framing of charges.

21. On 13.05.2025, the revisionist filed an application for adjournment on the ground that he was filing a revision in this High Court challenging the validity of the trial Court's order dated 05.05.2025, which was allowed by recording that it

would be proper in the interest of justice and accordingly, the case was adjourned for three days and was fixed for 16.05.2025. A copy of this revision was served in the office of the learned Government Advocate on 15.05.2025 and the revision was filed in the Registry of this Court on 16.05.2025. On 16.05.2025, the revisionist filed an application for adjournment on the ground that he has already filed a revision in this High Court against the order dated 05.05.2025. The prosecution filed written objections against the adjournment application stating that the defence was creating hurdles in framing of charges whereas his discharge application has been rejected on 05.05.2025 and on 13.05.2025 also, the proceedings were adjourned. The trial court rejected the adjournment application, framed charges under Sections 64(2), 127(2), 69, 351(3) BNS and fixed the matter for 28.05.2025 for recording of prosecution evidence.

22. On 20.05.2025, this revision was taken up by this Court, on which date this Court passed an interim order staying the operation of the impugned order dated 05.05.2025 passed by the trial court, as well as the entire proceedings of the case in the proceedings of the trial.

23. The State has filed a counter affidavit, annexing therewith a copy of the FSL report as per which the voice in the mobile conversation has been found to be of the revisionist. It has also been stated in the counter affidavit that the husband of the prosecutrix has lodged FIR No. 21 of 2025 dated 22.01.2025 against five persons, namely, (1) Komal Rathore, (2) Gopal Ji Rathore, (3) Anil Rathore, (4) Vishnu Rathore and (5) Jugendra Rathore, in Police Station Kotwali, District Sitapur, alleging that the revisionist is pressurizing the prosecutrix for entering into a settlement in Case Crime No. 16 of 2025 and in the same sequence of events, the named accused persons had made objectionable comments on social media against the prosecutrix, at the behest of the revisionist and his son. The FIR further alleges that the revisionist is trying to defame the prosecutrix and her family and put undue pressure upon them to withdraw FIR No. 16 of 2025. The revisionist has not been arrayed as an accused in the FIR No. 21 of 2025.

24. The prosecutrix has also filed a counter affidavit *inter alia* stating that after passing of the impugned order dated 05.05.2025 rejecting the discharge application, the trial court has framed charges on 16.05.2025, the revisionist has not assailed the validity of the order dated 16.05.2025 and, therefore, this Court

cannot interfere in the order rejecting the discharge application after the trial court has framed charges against the revisionist.

25. By filing another affidavit, the complainant has brought on record a copy of an order dated 18.05.2026 passed by the Hon'ble Supreme Court in SLP (Criminal) Diary No. 24811 of 2026, titled XYZ vs. State of U.P., which was filed by the prosecutrix challenging the validity of the interim order dated 20.05.2025 passed by this Court, which was disposed of by the following order: -

“Delay condoned.

We have heard the learned counsel appearing for the petitioner.

Though the petitioner has challenged the impugned order, the same being interim in nature, we are not inclined to interfere with the same.

However, we find force in the submission made by the learned counsel appearing for the petitioner that the nature of the case requires an earlier hearing.

In such view of the matter, we request the High Court to make an endeavour to dispose of Criminal Revision No.566/2025 within a period of four months from the date of receipt of a copy of this order.

The Special Leave Petition stands disposed of accordingly.

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

26. The learned counsel for the revisionist has submitted that even as per the material placed on record by the prosecution, there was a long standing consensual relationship between the revisionist and the complainant, although both of them knew that they were married to other persons and they could not marry each other during subsistence of their marriages and these allegations do not make out the commission of any of the alleged offences. He has placed reliance on the judgments of the Hon'ble Supreme Court in **Biswajyoti Chatterjee v. State of W.B.:(2025) 5 SCC 749, X v. A: 2024 SCC OnLine SC 316** and **Kunal Rameshbhai Kalyani v. State of Gujarat: 2026 SCC OnLine SC 1818**.

27. *Per contra*, the learned Additional Advocate General has submitted that the complainant has consistently stated that when she had gone to the house of the revisionist in the month of March 2020, he had forcibly raped her. He has submitted that even if the allegation that the revisionist subsequently continued to repetitively make physical relations with the complainant under allurement of marrying her is not believed as both of them are married persons, the allegation of commission of rape on the first instance in the month of March 2020 is independent of the allegation of allurement of marriage and if this allegation is supported by the statements recorded during investigation and it gives rise to a

grave suspicion against the revisionist. If it remains unrebutted, it may even be sufficient for its conviction. He has submitted that the scope of inquiry by the trial Court while deciding an application seeking discharge of an accused person as well as the jurisdiction of this Court while examining the legality of an order rejecting an application seeking discharge, is very limited. At this stage, the Court cannot examine the correctness of the allegations and the probative value of the evidence and the Court has merely to see if the prosecution material remains unrebutted, it can result in conviction of the accused. The learned AAG has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Tarun Jit Tejpal v. State of Goa**: (2020) 17 SCC 556, **State v. J. Doraiswamy**: (2019) 4 SCC 149, and **Lillu v. State of Haryana**, (2013) 14 SCC 643.

28. Section 227 of Cr.P.C. provides that: -

*“227. **Discharge.**—If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.”*

29. In the case of **Tarun Jit Tejpal v. State of Goa** (supra), the Hon'ble Supreme Court discussed the ratio laid down in the judgments in the cases of **State of T.N. v. N. Suresh Rajan**: (2014) 11 SCC 709, **State v. S. Selvi**, (2018) 13 SCC 455, **Sajjan Kumar v. CBI**, (2010) 9 SCC 368, **Mauvin Godinho v. State of Goa**, (2018) 3 SCC 358, **Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia**, (1989) 1 SCC 715, **Union of India v. Prafulla Kumar Samal**, (1979) 3 SCC 4 and concluded that: -

*“Section 227 itself contains enough guidelines as to the scope of enquiry for the purpose of discharging an accused. It provides that ‘the Judge shall discharge when he considers that there is no sufficient ground for proceeding against the accused’. The “ground” in the context is not a ground for conviction, but a ground for putting the accused on trial. It is in the trial, the guilt or the innocence of the accused will be determined and not at the time of framing of charge. The court, therefore, need not undertake an elaborate enquiry in sifting and weighing the material. Nor is it necessary to delve deep into various aspects. **All that the court has to consider is whether the evidentiary material on record if generally accepted, would reasonably connect the accused with the crime. No more need be enquired into.**”*

(emphasis added)

30. In **State v. J. Doraiswamy** (supra), the Hon'ble Supreme Court held that: -

“15. While considering the case of discharge sought immediately after the charge-sheet is filed, the court cannot become an appellate court and start appreciating the evidence by finding out inconsistency in the statements of the witnesses as was done by the High Court in the impugned order running in 19 pages. It is not legally permissible.”

31. In **Sajjan Kumar v. CBI**: (2010) 9 SCC 368, the Hon'ble Supreme Court laid down the following principles regarding scope of inquiry at the time of framing charges and while considering a request for discharge: -

“21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving inquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to

discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

(emphasis added)

32. The ratio laid down in the case of **Sajjan Kumar** (supra) has been followed consistently. It has been followed in **Tarun Jit Tejpal v. State of Goa** (supra) relied upon by the learned AAG and recently it has been followed in **Anand Rai v. State of M.P.**: (2026) 7 SCC 461, wherein the Hon’ble Supreme Court has made the following parting observations: -

“48. Before parting with the matter, it is observed that at the stage of framing of charge or considering discharge, the Court is not dealing with an abstract legal exercise. It is dealing with real people, real anxieties, and the real weight of criminal prosecution. Judicial responsibility at this stage calls for care, balance, and an honest engagement with the facts on record. The power to frame a charge is not meant to be exercised by default or out of caution alone. When the material placed before the Court, taken at face value, does not disclose the ingredients of an offence, the law expects the Court to have the clarity and courage to say so and to keep such a case aside.

*49. Discharge, in that sense, is not a technical indulgence but an essential safeguard. **The Court must consciously distinguish between a genuine case that warrants a trial and one that rests only on suspicion or assumption or for that matter without any basis. To allow a matter to proceed despite the absence of a prima facie case is to expose a person to the strain, stigma, and uncertainty of criminal proceedings without legal necessity. Fidelity to the Rule of Law requires the Court to remember that the process itself can become the punishment if this responsibility is not exercised with care.***

50. This responsibility weighs heaviest on trial courts, which are the first courts most people ever step into. For a litigant or an accused, the trial court is not just one level in a hierarchy. It represents the face of the judiciary itself. The sensitivity, fairness, and legal discipline shown at this stage shape how ordinary citizens understand justice. The impression a trial court creates, through its approach to facts and law, often becomes the impression people carry of the entire judicial system. That is why, at every stage and especially at the threshold, trial courts must remain alive to the human consequences of their decisions and to the trust that society places in them.”

33. I proceed to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the revisionist has been made out by considering the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offences, as even at this stage all that the

prosecution states cannot be accepted as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

34. When the facts of the case are examined in light of the above mentioned principles of law, it appears that the prosecutrix is a married woman having grown up children and at least one daughter-in-law. She was aged 49 years 10 months at the time of lodging the FIR and at the time of inception of the incident in the year 2020, she would be aged about 46 years. She is a politically active lady having high aspirations. She claims to have come in contact of the revisionist while attending the meetings of Tailik Mahasangh and she claims that the revisionist was an M.L.A., he offered to take her in his protection and to form a political alliance with her under which she would be uplifted politically and she willingly accepted this offer and she was made the District Chairperson – Women, Tailik Mahasangh, Sitapur. Although the complainant alleges that the revisionist had raped her when she had visited his home on an unspecified date in the month of March 2020 at 1:00 p.m., it is relevant to keep in mind that the place of the alleged incident was not any secluded place, rather it was the house of a married man living with her wife and children and was an M.L.A. at that time and who later became a M.P. The complainant has nowhere stated that the revisionist was alone in his house at the time of the incident in the year 2020.

35. Although the victim has alleged that she was forcibly raped in a locked room in the house of the revisionist, while narrating the incident to the doctor, the medico-legal report records the following information given by the complainant: -

“15 B. Type of physical violence used if any (Describe)

Hit with (Hand, fist, blunt object, sharp object)		Burnt with	
Biting		Kicking	
Pinching	No	Pulling hair	No
Violent shaking		Banging head	
Dragging		Any other	

15 C.

√

- i. Emotional abuse or violence if any (insulting, cursing, belittling, terrorising). – Yes
- ii. Use of restraints if any – No
- iii. Used or threatened the use of weapon(s) or objects if any - No

iv. *Verbal threats (for example threats of killing or hurting the survivor or any other person in whom the survivor is interested, use of photographs for blackmailing etc.) if any – No*

v. *Luring (sweets, chocolates, money, job) if any – No*

vi. *Any other – No*

15 D.

i. *Any H/O drug/alcohol intoxication – No.*

ii. *Whether sleeping or unconscious at the time of the incident – No.*

15 E. *If survivor has left any marks of injury on assailant/s, enter details – No”*

36. The aforesaid information given by the complainant at the time of her medico-legal examination stating that no physical violence was used by the revisionist belies the allegation that the revisionist had forcibly raped her. Although the revisionist had told the doctor that the revisionist had terrorised her, she admitted the revisionist had not insulted, cursed or belittled her and she stated that the revisionist had not used any restraints, he had not used or threatened the use of any weapon or objects, he had not extended any verbal threats for killing or hurting the complainant or any other person. It is also recorded in the medico-legal examination that in response to numerous questions put by the doctor regarding the details of the alleged sexual violence, the prosecutrix answered that she did not know anything.

37. Although in the FIR and in her statements the complainant has alleged that the revisionist has sexually exploited her under the allurement of marrying her, during her medico-legal examination she stated that the revisionist had not given any type of allurement to her.

38. Moreover, the complainant and the revisionist both are living with their respective spouses and children and the complainant also has a daughter-in-law. She did not allege in the FIR or in her initial statement recorded by the Investigating Officer that she was willing to get her subsisting marriage dissolved and that she had made any effort in this regard. The complainant is not a naive girl of tender age; she is a politically active middle aged lady, who has grown up children a daughter-in-law and she claims to have been allured into getting married with the revisionist whereas the law does not permit any married woman to marry another man during the subsistence of her earlier marriage.

39. Subsequently, the prosecutrix improved her version by giving an additional statement to the Investigating Officer wherein she stated that the revisionist had

assured that he would get her marriage dissolved within two minutes, but no reasonable person of ordinary prudence would believe that a politically active lady can be ignorant of the fact that no Hindu marriage can be dissolved in two minutes. Moreover, she stated that the revisionist had told her that he could not get divorce for himself but he could get divorce for the complainant within two minutes because he is an influential person. This also cannot be believed by any reasonable person of ordinary prudence that an influential person cannot exercise his influence for getting a divorce for himself but he can exercise his influence for getting another person divorced. These facts show that the story cooked up by the complainant that the revisionist had exploited her sexually under the allurements of marrying her during subsistence of her marriage, is so absurd that it cannot be believed by any person of ordinary prudence.

40. In **Biswajyoti Chatterjee v. State of W.B.** (supra), the complainant knew from day one that the accused was in a subsisting marriage, though separated and yet she made a reasoned choice to sustain a relationship with the appellant. The Hon'ble Supreme Court held that it is improbable that the complainant had engaged in a physical relationship with the appellant, only on account of an assurance of marriage. The Hon'ble Supreme Court relied upon the judgment in the case of **Prashant v. State (NCT of Delhi)** (2025) 5 SCC 764, wherein it was held that it is inconceivable that any woman would continue to meet the accused or maintain a prolonged association or physical relationship with him in the absence of voluntary consent on her part. The Hon'ble Supreme Court also observed that *"there is a growing tendency of resorting to initiation of criminal proceedings when relationships turn sour. Every consensual relationship, where a possibility of marriage may exist, cannot be given a colour of a false pretext to marry, in the event of a fall out."*

41. It is also relevant to notice that the transcript of mobile conversation between the complainant and the revisionist shows that the complainant had on her own come to the revisionist and she complained that the revisionist had called her sons and sent her back with them. It belies the allegation that the revisionist was sexually exploiting her by blackmailing her and, on the contrary, it shows that the revisionist had not called her, but she had come on her own leaving her husband, sons and daughter-in-law behind.

42. Although the complainant has subsequently alleged that the revisionist had blackmailed her, during her medico-legal examination she had specifically stated that the revisionist had not used any photograph for blackmailing etc. On the contrary, the prosecution material shows that the complainant herself has tried to use the recording of a mobile conversation between herself and the revisionist to the detriment of the latter, which may amount to blackmailing of the revisionist by the complainant herself.

43. In **Kunal Rameshbhai Kalyani v. State of Gujarat**: 2026 SCC OnLine SC 1818, the Hon'ble Supreme Court held that where the FIR indicates that the accused and the complainant came into contact through a digital platform and a friendship developed between them, which later became a love affair and the accused communicated his desire to marry the complainant on the first physical meeting and the complainant claimed that she succumbed to his entreaties and allowed sexual intercourse and the complainant stayed with the accused in a hotel for two days, it indicates a consensual relationship and it does not establish a deceitful conduct of the appellant having induced the complainant into sexual intercourse, which she succumbed to only on the promise to marry.

44. In the present case also, the complainant herself has stated that she came in contact with the revisionist during public meetings, he offered her protection and political alliance and partnership, she accepted the offer, the revisionist made her the District Chairperson of Tailik Mahasangh, of which the revisionist was the National Chairperson and thereafter an intimacy developed between them and the complainant started having immense trust upon him. The complainant's husband has stated that the revisionist used to call her to his house at any time quite often and the complainant used to visit his home quite frequently and she used to go even late in the nights and at times, she used to return home in the morning. These statements indicate a long term consensual extra-marital relationship between two married persons of matured ages and it belies the allegation of rape under allurement of marriage.

45. It is also interesting to note that the persons who have come forward to support the complainant's claim that the revisionist kept on making physical relations with her under a promise to marry her but later on he declined to marry her, are the complainant's husband, her married son and her daughter-in-

law, all of whom have blamed the revisionist for not marrying, respectively, their wife, mother and mother-in-law.

46. In **State of Haryana v. Bhajan Lal**: 1992 Supp (1) SCC 335, the Hon'ble Supreme Court held that the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code may be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice inter alia 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, or 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. The aforesaid ratio has consistently been followed and it has been followed in **X v. A**, 2024 SCC OnLine SC 316 also, which has been cited by the learned Counsel for the revisionist.

47. When the prosecution material itself indicates that the complainant has cooked up a story which no reasonable person of ordinary prudence can believe, it does not give rise to a strong suspicion that the revisionist has committed the alleged offences. The continuation of criminal proceedings instituted on such frivolous and self-contradictory allegations would certainly amount to an abuse of the process of law and would cause a failure of justice, which warrants interference by this Court in exercise of its revisional jurisdiction.

48. The learned AAG has relied upon the judgment in the case of **Lillu v. State of Haryana** (supra), wherein it has been held that whether the victim is of a promiscuous character is a totally irrelevant issue altogether in a case of rape and even a woman of easy virtue has a right to refuse to submit herself to sexual intercourse to anyone, because she is not a vulnerable object or prey for being sexually assaulted by anyone and everyone. There can be no dispute against the aforesaid proposition, but it will not apply to the facts of the present case, which show the existence of a long existing consensual extra-marital relationship between two married persons of mature ages.

49. Sri. Prashant Singh Atal, the learned Senior Advocate representing the complainant has submitted that when the trial Court has framed charges on

16.05.2026 after passing of the impugned order, the revisionist ought to have challenged the validity of the order framing charges and in absence of any challenge having been made to the order framing charges, the trial Court can proceed with the trial. I am unable to accept this submission because when the validity of the order rejecting discharge has been challenged before this Court, the jurisdiction of this Court to examine the validity thereof is not taken away merely because the trial Court has proceeded to frame the charges and in case this Court comes to the conclusion that the trial Court has wrongly rejected the application for discharge and that the revisionist deserves to be discharged, the entire proceeding of the trial would stand terminated and the charges framed by the trial Court would become inconsequential.

50. This Court had made an observation that it was not proper for the trial Court to frame the charges on 16.05.2026 even after it was informed that the instant revision had already been filed in this High Court, and in response, Sri. Prashant Singh Atal has submitted that the trial Court has rightly done so in view of the proviso appended to Section 346(1) BNSS. Section 346(1) BNSS reads thus: -

“346. Power to postpone or adjourn proceedings.—(1) In every inquiry or trial the proceedings shall be continued from day-to-day basis until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:

Provided that when the inquiry or trial relates to an offence under Section 64, Section 65, Section 66, Section 67, Section 68, Section 70 or Section 71 of the Bharatiya Nyaya Sanhita, 2023 the inquiry or trial shall be completed within a period of two months from the date of filing of the chargesheet.”

51. Firstly, Section 346 BNSS applies to trial, which commences only after framing of the charges and it had not commenced till 16.05.2025. Secondly, it is a matter of common knowledge that all the Courts are working under immense work load, including the load of numerous old cases and it is not the normal practice to proceed with a case with haste even after filing of a revision in the High Court. Thirdly, the proviso appended to Section 346(1) BNSS would only apply to inquiry or trial which relates to an offence under Sections 64, 65, 66, 67, 68, 70 or 71. In the present case, the charges are regarding offences under Sections 64(2),

351(3), 127(2), 69 and not under any of the Sections 64, 65, 66, 67, 68, 70 or 71. Therefore, Section 346(1) BNSS would not apply to the present case.

52. When the trial Court was apprised of the fact that the revision has already been filed before this High Court on 16.05.2025 and it would be taken up by this Court in a day or two and it was not the case that the revision had been pending since a very long time and it was not being heard, the judicial propriety demanded that the Trial Court should not have hastily proceeded to frame the charges.

53. Accordingly, the revision is allowed. The impugned order dated 05.05.2025 passed by the learned Additional District & Sessions Judge, F.T.C. (O.A.W.), Sitapur in Sessions Trial No. 424/2025 (State v. Rakesh Rathore) arising out of Case Crime No. 16 of 2025, under Sections 64(2), 351(3), 127(2), 69 of Bhartiya Nyaya Sanhita (hereinafter referred to as 'BNS'), Police Station Kotwali, District Sitapur, whereby the revisionist's application seeking discharge, has been rejected is set aside. The discharge application of the revisionist is allowed and the revisionist is discharged from all the charges.

(Subhash Vidyarthi,J.)

Whether the judgment is speaking – Yes

Whether the judgment is reportable – Yes

(Subhash Vidyarthi,J.)

September 17, 2026

Renu/Arti