



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224

CRM-M-7225-2022(O&M)
Date of Decision: 16.01.2026

[REDACTED]

....Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

....Respondents(s)

CORAM : HON'BLE MR. JUSTICE ALOK JAIN

Present : Mr. Raman B. Garg, Advocate
Mr. Mayank Garg, Advocate and
Mr. Navdeep Singh, Advocate for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab.

Mr. Tanheer Singh, Advocate for respondent no.2.

ALOK JAIN, J. (Oral)

1. The present petition has been filed under Section 482 of Cr.P.C seeking quashing of FIR No.144 dated 25.08.2020 under Sections 376, 420 of IPC registered at Police Station, Division No.1, Pathankot, as well as chargesheet dated 10.11.2021 and also the order dated 10.11.2021 whereby the application of the petitioner for discharge has been dismissed.

2. Learned counsel for the petitioner has opened his arguments by taking this Court through the contents of the FIR which reads as under:-

*“Complaint No. 448 submitted on 22.06.2020. To, The SSP, District Pathankot. Subject: Complaint against [REDACTED]
[REDACTED] resident of New Delhi for making illicit relations on the pretext of marriage, Mobile No. [REDACTED]*



██████ Sir, it is requested that I ██████ daughter of ██████ resident of ██████ I came in contact with ██████ through facebook. approximately 2 years ago and we both became friends. On 3rd September, 2018, ██████ called me for meeting at City Center Mall, Pathankot and we both met. I had told ██████ already that I am 5 years elder to him; but even then, ██████ agreed with me, but I was not ready to make friendship with him. Thereafter, ██████ went to Nasik. When ██████ came back on leave from Nasik after about 6 months, then he came to our home also to meet my family at Sujampur. Thereafter, ██████ took me a lot more various places also alongwith him for outing. During this period, he proposed me for marriage and I also said yes to get married with him. Whenever we used go to outside anywhere for outing, then every time ██████ had made physical relation with me. Thereafter, I told ██████ many times that now we have spent a lot of time together and my family has also agreed for the marriage. Therefore, now we should solemnize the marriage. However, ██████ kept avoiding me saying that my family is not ready to accept this marriage and I am trying to convince my family. The first posting of ██████ was at ██████, ██████ and he has been posted out at ██████ While going to his place of posting at ██████ he called me to come at ██████ and met me and told me while sitting in car that his family is not agreeing for this marriage, therefore we have to leave each other now. Since then upto now whenever ██████ has been ringing me up, he has been provoking me to commit suicide. Now, all my phone numbers are in reject list.

██████ has ruined my life and he has also been having physical relations with me by bluffing about marriage and



now he is refusing to marry. Necessary legal action may kindly be taken against [REDACTED] and justice be got done to me. Yours faithfully. Sd/- [REDACTED] daughter of [REDACTED], resident of [REDACTED].

3. Learned counsel for the petitioner submits that the present case is a simpliciter case of a soured consensual relationship. The petitioner and the complainant were in a consensual relationship and subsequently proceeded to get engaged by performing a *roka* ceremony. However, owing to temperamental differences, the petitioner later refused to marry the complainant. Learned counsel submits that a failed or soured relationship, by itself, does not attract criminal prosecution. Therefore, the trial Court erred in law in rejecting the petitioner's application for discharge.

4. It is further submitted that the petitioner is a serving officer in the Indian army and the temperamental differences arose between the petitioner and the complainant, when he was posted in a sensitive area as a result of which the channel of communication between them broke down, which the complainant, could not bear and allegedly started threatening the petitioner to commit suicide which further aggravated the situation. Consequently, the petitioner in his wisdom and keeping in view his future prospects, took a decision not to marry the complainant which ultimately led to the lodging of the present FIR. Learned counsel further submitted that the essential ingredients of Section 376 and 420 of IPC are not made out, and hence prays for the quashing of the FIR.



5. *Per contra*, learned counsel for the complainant has vehemently opposed the grant of any relief to the petitioner on the ground that the petitioner has played with the life of the complainant. It is submitted that the petitioner allegedly enticed the complainant to enter into a physical relationship with him, despite being fully aware of the fact that complainant is elder to the petitioner and also being fully conscious of each other's temperament. It is further submitted that the complainant being a simple educated girl, was unable to foresee the petitioner's intentions and it was beyond her apprehension as to why after being entangled with her, the petitioner all of a sudden withdrew his commitment to live the life together. Learned counsel vehemently submitted that it is only when the petitioner withdrew from the company of the complainant that she realized that a fraud has been played upon her by the petitioner and she has been mentally and physically violated.

6. Learned counsel for the complainant has further raised the argument that the present petition is not maintainable for the reason that the order under challenge is revisable under Section 397 Cr.P.C and hence the Court should not invoke its inherent power under Section 482 of Cr.P.C. when a specific provision is available to seek the remedy.

7. At this stage, learned counsel for the petitioner rebutted the above said arguments by placing reliance upon the judgment "*Dhariwal Tobacco Products Ltd. v. State of Maharashtra*", (2009) 2 SCC 370 , wherein it has been observed that application under Section 482 of Cr.P.C cannot be dismissed only on the ground that remedy of revision under



Section 397 Cr.P.C was available, if continuing, such proceedings is an abuse of process of law.

8. Learned State counsel has also submitted that there are cogent material on record against the petitioner and moreover this Court should not undertake a mini-trial or meticulously examine the evidence. It is contended that the contents of the FIR and the material collected during investigation disclose the commission of a *prima facie* offence. Learned State counsel also submitted that the petitioner sexually violated the complainant and established physical relations with her on repeated occasions by alluring her with his sweet talk and on the false pretext of marriage. It is further submitted that although the petitioner proceeded to get engaged to the complainant, but subsequently resiled from his promise and refused to marry the complainant which *prima facie* shows that there was a promise to marriage. Therefore the present petition deserves to be dismissed.

9. Heard learned counsel for the parties as well as learned counsel for the State at length. However, before proceedings further in the matter, it is imperative to reproduce provisions of Section 376 and 420 of IPC which reads as under:-

376. Punishment for rape.—(1) *Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which 1 [shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine].*

(2) *Whoever,—*



- (a) being a police officer, commits rape—*
 - (i) within the limits of the police station to which such police officer is appointed; or*
 - (ii) in the premises of any station house; or*
 - (iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or*
- (b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or*
- (c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or*
- (d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or*
- (e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or*
- (f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or*
- (g) commits rape during communal or sectarian violence; or*
- (h) commits rape on a woman knowing her to be pregnant; or*
- (j) commits rape, on a woman incapable of giving consent; or*
- (k) being in a position of control or dominance over a woman, commits rape on such woman; or*
- (l) commits rape on a woman suffering from mental or physical disability; or*
- (m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or*
- (n) commits rape repeatedly on the same woman,*



shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation.—For the purposes of this sub-section,—

(a) “armed forces” means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) “hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) “police officer” shall have the same meaning as assigned to the expression “police” under the Police Act, 1861 (5 of 1861);

(d) “women's or children's institution” means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children. 1

[(3) Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:



Provided further that any fine imposed under this sub-section shall be paid to the victim.]

420. Cheating and dishonestly inducing delivery of property.—*Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

10. A perusal of the above sections clearly demonstrates that there are specific parameters under which a person can be charged for the offence alleged. A bare perusal of the FIR would reveal that essential ingredients of Section 376 IPC are not satisfied in the present case, much less any of the situations contemplated thereunder. The complainant is an educated woman who has fully aware, at all the times that while entering into physical relations with the petitioner that they were not married. A merely consensual relationship even if it subsequently breaks down cannot be termed as a rape, particularly when there is neither any allegations of force nor of any misrepresentation or false promise at the inception by the petitioner much less any such fact narrated by the complainant. It is also pertinent to mention here that a roka ceremony between the parties was also solemnized on 29.06.2020 that too after the complaint was lodged by the complainant and when the petitioner was put to notice by the police on his whatsapp to appear in the said complaint to



which the petitioner duly replied to the police official. Despite the pendency of complaint, the petitioner made sincere effort to restore the relationship. However, when the things went out of hand and the complainant repeatedly started threatening the petitioner with dire consequences, including allegations that the petitioner was provoking her to commit suicide, the petitioner withdrew from the relationship and categorically informed the complainant that he could not get married to her.

11. It is apposite to mention here that human relationships are dynamic and may change with time. A consensual relationship by itself cannot give rise to criminal liability under Section 376 IPC unless statutory ingredients necessary to constitute the said offence are clearly made out. Merely because consensual relationship does not culminate into marriage due to incompatibility, cannot be forcibly converted into life long relationship. In the present case, owing to the irreconcilable differences between the petitioner and the complainant, the complainant chose to pressurize the petitioner by making repeated complaints and subsequently lodging the present FIR. Therefore, from the perusal of the record, it does not appear that the initial promise to marry allegedly made by petitioner was false to begin with. Perusal of FIR further itself suggests that the alleged promise to marry could not be fulfilled by petitioner due to intervening circumstances consequently the relationship ended and the present FIR came to be registered. Therefore, under these circumstances letting the petitioner to face the trial would be nothing but a sort of an abuse of the process of law which this Court cannot permit. Reliance is



placed on the judgment passed by Hon'ble Supreme Court in case titled as

“Anmol Bhagwan Nehal vs. State of Maharashtra, 2025 SCC Online

SC 1230. The relevant paragraph reads as under:-:-

“9.that consensual relationship turning sour or partners becoming distant cannot be a ground for invoking criminal machinery of the State. Such conduct not only burdens the Courts, but blots the identity of an individual accused of such a heinous offence. This Court has time and again warned against the misuse of the provision and has termed it a folly to treat each breach of promise to marry as a false promise and prosecute a person for an offence under Section 376 IPC.”

12. In light of the above settled principles of law when applied in the factual matrix of the present case as discussed hereinabove, the present FIR seems to be an abuse of process of law, as it is apparent that both the parties were major and in a consensual relationship and the subsequent fall out of the relationship was only on account of the temperament differences. Therefore, the same cannot be considered as an offence under Section 376 of IPC. Accordingly, the present FIR along with all the subsequent proceedings is hereby quashed and the present petition stands disposed of.

13. Pending application, if any, also stands disposed of.

(ALOK JAIN)
JUDGE

16.01.2026

Deepak Patwal

1. Whether speaking/reasoned	Yes/No
2. Whether reportable	Yes/No