



**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

225

CRA-AD-248 of 2024  
Date of decision: August 5<sup>th</sup>, 2025

SXXXX

.....Appellant

Versus

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL  
HON'BLE MR. JUSTICE H.S. GREWAL**

Present: Mr. Punit Malik, Advocate  
for the appellant.

**MANJARI NEHRU KAUL, J.**

The instant appeal has been filed by the complainant/prosecutrix assailing the judgment of acquittal dated 15.07.2024 passed by learned Additional Sessions Judge, Gurugram, in Sessions Case No.469/2022, whereby the accused/respondent Pintu Kumar was acquitted of charges under Sections 376(2)(n)/506 of the IPC.

2. Having heard learned counsel for the appellant, and on careful perusal of the material on record as well as the impugned judgment, we do not find any infirmity or perversity in the findings of the trial Court. The appeal, being devoid of merit, deserves to be dismissed for the reasons set out in detail below.

3. The case of the prosecution stems from a complaint filed by the prosecutrix on 29.05.2022, wherein she alleged that she had met the accused Pintu Kumar in 2019 at a marriage function. Subsequently, in January 2020, when she had moved to Gurugram for employment and

was residing in a rented room in Village Hasanpur, the accused came to her residence and allegedly established physical relations with her forcibly on a false promise of marriage. It was further alleged that this continued over a period of time, including during a live-in arrangement from September 2020 to November 2020, and thereafter even after she shifted to Nitin Vihar, Gurugram, in April 2021. The prosecutrix claimed that thereafter the accused abruptly ceased contact and refused to marry her, instead threatening her with dire consequences. Based on the said complaint (Exhibit P7), FIR (Exhibit P20) was registered on 29.05.2022 and investigation ensued.

4. The accused was arrested, medically examined, and charge sheeted under Sections 376(2)(n) and 506 of the IPC. The case was committed for trial. The prosecution examined nine witnesses, including the prosecutrix herself (PW-5), PW-8 Investigating Officer L/S.I. Meena, doctors, and witnesses, who deposed to the residential arrangement of the couple. In his statement under Section 313 of the Cr.P.C., accused pleaded false implication at the instance of prosecutrix under the guise of extorting money from him, and denied all allegations. He further denied the factum of promise of marriage to the prosecutrix from his end. The defence examined the accused himself as DW-1.

5. The learned trial Court, after evaluating the oral and documentary evidence led by the prosecution and defence, acquitted the accused on the ground that the prosecution had failed to prove its case beyond reasonable doubt. The trial Court held that the relationship between the parties was consensual in nature and that the element of deception, essential to bring the case within the ambit of Section 375 of

the IPC (specifically clause “secondly”) read with Section 90 of the IPC, was not proved.

6. The trial Court noted the following key findings:

- The prosecutrix and accused were in a long-standing relationship;
- There was active involvement of both families in discussions of their marriage;
- There was no contemporaneous complaint of sexual assault during the period of cohabitation;
- The FIR was lodged belatedly, after the relationship had soured;
- The prosecution failed to demonstrate that the promise of marriage was false from inception, which is a necessary element to attract Section 375 of the IPC under the plea of vitiated consent.

7. Learned counsel for the appellant has challenged the acquittal of the accused on several grounds notably:

- (i) That the relationship was not consensual but induced by a false promise of marriage;
- (ii) That the trial Court erred in discounting the testimony of the prosecutrix, which was otherwise consistent and credible; no self-respecting woman will make false accusation of rape/sexual assault due to the stigma and trauma attached to such offence.
- (iii) That the WhatsApp chats (Exhibit P-9) supported the

allegation that the accused had no intention to marry her;

- (iv) The testimony of PW-3 Madan Kumar Dubey corroborated the stand of the complainant that the couple had presented themselves as husband and wife. Reliance was placed on the consistent version of the prosecutrix across her complaint, statement under Section 164 of the Cr.P.C., and testimony before the Court;
  - (v) That the trial Court misapplied the principles laid down by the Hon'ble Supreme Court in cases involving false promises of marriage;
  - (vi) That the contradictory defence taken by the accused and the alleged financial transactions further undermined his credibility.
8. We have heard learned counsel for the appellant and perused the relevant material on record.
9. The central question for determination in the present appeal is:
- Whether the acquittal of the accused was based on a proper appreciation of evidence and whether the consent of the prosecutrix to the physical relationship was vitiated by a false promise to marry within the meaning of Section 375 of the IPC?
10. To determine this, it is necessary to examine:
- (a) Whether there was a false promise of marriage made by the accused from the very inception with no intention to marry;
  - (b) Whether such false promise led to sexual relations, thereby vitiating consent under a misconception of fact as

contemplated under Section 90 of the IPC;

- (c) Whether the learned trial Court's appreciation of facts and law was legally sound and sustainable?

11. A careful reading of the testimonies, particularly of the prosecutrix, who appeared as PW-5, reveals that the accused and the prosecutrix shared a prolonged live-in relationship, lasting several months across two different locations. During her cross-examination, the prosecutrix candidly admitted that both families were involved in marriage talks in 2021, and that physical relations continued thereafter until April 2022, even after the family of the accused reportedly did not respond positively to the marriage proposal with her.

12. PW-3 Madan Kumar Dubey, the caretaker of the house testified that the accused and the prosecutrix introduced themselves as husband and wife, though he was unaware of their actual legal status. This evidence merely reinforces the existence of a consensual live-in relationship and does not *ipso facto* indicate deception or inducement.

13. A distinction must be, therefore, drawn between a false promise and a breach of promise; a false promise, made with no intention of being fulfilled from the outset, amounts to deception and can vitiate consent. Conversely, a *bona fide* promise which could not be fulfilled due to unforeseen circumstances is not culpable under Section 376 of the IPC. In the context of the present case, we find that the prosecutrix was a mature adult, well aware of the implications of her actions, and she continued the physical relationship for over two years despite the uncertainty surrounding marriage. The very involvement of families in marriage discussions negates the argument that the accused never

intended to marry her.

14. The WhatsApp chats (Exhibit P-9) are ambiguous. While they reflect a deteriorated relationship, they do not conclusively prove that the accused never intended to marry her from the outset. No definitive admission of deception can be culled out from these chats.

15. Furthermore the FIR was lodged on 29.05.2022, long after the prosecutrix had allegedly been subjected to repeated sexual assaults from January 2020 to April 2022. There is no plausible explanation for this delay. In matters involving sexual offences, delay alone is not fatal, but when the relationship was continued with full knowledge of the reluctance of the accused or refusal to marry, the timing of the FIR becomes highly relevant in assessing the genuineness of the allegations.

16. The prosecutrix and the accused were in a relationship for a substantial period, during which they lived as husband and wife. The WhatsApp chats (Exhibit P-9), though distasteful in tone, do not conclusively establish that the accused never intended to marry the prosecutrix at the beginning of the relationship. At best, it reflects a deterioration in their relationship over a period of time. A statement like “*I used you for enjoyment*” made during a bitter falling-out or dispute is inadequate to infer criminal intent *ab initio*.

17. In ***Mahesh Damu Khare Versus The State of Maharashtra and another 2024 INSC 897***, the Hon’ble Supreme Court cautioned against treating every case of broken marriage promise as rape by observing that it would be a folly to treat each breach of promise to marry as a false promise and to prosecute a person under Section 376 of the IPC. Recently, in ***Amol Bhagwan Nehul Versus The State of Maharashtra***

*and another 2025 insc 782*, the Hon'ble Supreme Court emphasised that a consensual relationship turning sour or partners becoming distant cannot be a ground for invoking criminal machinery of the State.

18. Consent may be either express or implied. A clear and crucial distinction exists between consensual sexual relations and the offence of rape. Therefore, a Court must meticulously assess whether the accused genuinely intended to marry the victim or was driven by dishonest and *mala fide* motives. Applying the legal framework set out by the Hon'ble Supreme Court through its various judicial pronouncements, it is clear that there is no evidence to prove that the accused never intended to marry the prosecutrix from the very beginning. The relationship continued for over two years, with both families involved in marriage talks; the prosecutrix, a mature adult, and her continued engagement in the relationship post the alleged refusal indicates voluntariness, not deception.

19. The trial Court after a comprehensive appreciation of evidence, rightly concluded that the prosecution failed to prove the offence beyond reasonable doubt. We find no perversity in the said finding. The relationship between the parties comes across as consensual as the prosecutrix continued to engage with the accused despite knowledge of the marriage impasse. The submissions made by the counsel that the woman would not make false accusations due to stigma and trauma, though generally persuasive, cannot override the necessity of legal proof of the ingredients of the offence. Mere moral disapproval of the conduct of the accused cannot substitute for legal culpability.

20. As a sequel to the above, there being no merit in the instant appeal, the same stands dismissed.

(MANJARI NEHRU KAUL)  
JUDGE

August 5<sup>th</sup>, 2025  
*Puneet*

(H.S. GREWAL)  
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes