

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 684 of 2024

Sagar Kumar Gupta, aged about 24 years, son of Ramnandan Prasad
Gupta, resident of Village-Pandedih, P.O.-Sijua, P.S.-Baghmara, Dist.-
Dhanbad

.... Petitioner

Versus

The State of Jharkhand

.... Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

.....

For the Petitioner	: Mr. Amit Kr. Sinha, Advocate
	: Ms. Vidhika Saboo, Advocate
For the State	: Mrs. Vandana Bharti, Addl. P.P.
For the Informant	: Mr. Vikash Anand, Advocate

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By the Court:-

I.A. No. 11804 of 2024

1. Heard the parties.
2. Learned counsel for the petitioner submits that this interlocutory application has been filed with a prayer to implead the informant as opposite party no.2 in view of the settlement between the parties outside the court.
3. Considering the aforesaid facts, the prayer is allowed.
4. The petitioner is directed to implead the informant as opposite party no.2 in the cause title of this criminal miscellaneous petition during the course of the day.

5. This interlocutory application is disposed of accordingly.

(Anil Kumar Choudhary, J.)

Cr.M.P. No. 684 of 2024

1. Heard the parties.
2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 of Cr.P.C. with the prayer for quashing the entire criminal proceeding along with the FIR in connection with Tetulmari P.S. Case No. 29 of 2023, corresponding to Sessions Trial No. 765 of 2023 and G.R. No. 2099 of 2023 of the court of Additional Sessions Judge-III, Dhanbad though in page nos. 3 and 12, it has wrongly been mentioned as Additional Judicial Commissioner-III, Dhanbad. Prayer has further been made to quash the entire charge sheet and subsequent reliefs.
3. The allegation against the petitioner is that the informant was in love with the petitioner for four years prior to institution of the case and the petitioner promised to marry her and requested her to have physical relationship with him. Consequent upon such promise, the petitioner has been sexually exploiting the victim for four years. On 29.06.2023 when the informant proposed the petitioner to marry her as he has already got the employment, the petitioner refused to do the same and assaulted and abused the informant.

4. It is submitted by the learned counsel for the petitioner that there is no allegation against the petitioner that the petitioner was not having the intention to marry the victim at the time of making the promise. Hence, it is submitted that the offence punishable under Section 376 of Indian Penal Code is not made out. So far as the other offences are concerned, it is jointly submitted by the learned counsel for the petitioner and the learned counsel for the opposite party no.2 by drawing attention of this Court to the Interlocutory Application No.3704 of 2025 which is supported by separate affidavits of the petitioner and the informant-opposite party no. 2; that therein it has categorically been mentioned that the dispute between the parties has already been settled outside the Court. Therefore, the informant does not want to proceed with the case.
5. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Madhukar & Ors. vs. The State of Maharashtra & Anr.** passed in Criminal Appeal arising out of SLP (Crl.) No. 7212 of 2023 dated 14.07.2025, paragraph no. 6 of which reads as under:-

"6. At the outset, we recognise that the offence under Section 376 IPC is undoubtedly of a grave and heinous nature. Ordinarily, quashing of proceedings involving such offences on the ground of settlement between the parties is discouraged and should not be permitted lightly. However, the power of the Court under Section 482 CrPC to secure the ends of justice is not constrained by a rigid formula and must be exercised with reference to the facts of each case."

wherein, the Hon'ble Supreme Court of India has observed that the power of High Court under Section 482 Cr.P.C. to secure the ends of justice is not constrained by a rigid formula and must be exercised with reference to the facts of each case. Hence, it is submitted that the prayer as made in this criminal miscellaneous petition be allowed.

6. Learned Additional Public Prosecutor has no serious objection.
7. Having heard the submissions made at the Bar and after going through the materials in the record, it is pertinent to mention here that it is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case **Sonu @ Subhash Kumar vs. State of Uttar Pradesh** reported in **AIR 2021 SC 1405** paragraphs-9 to 11 of which read as under:-

"9. In Pramod Suryabhan Pawar (supra), while dealing with a similar situation, the principles of law which must govern a situation like the present were enunciated in the following observations:

"Where the promise to marry is false and the intention of the maker at the time of making the promise itself was not to abide by it but to deceive the woman to convince her to engage in sexual relations, there is a "misconception of fact" that vitiates the woman's "consent". On the other hand, a breach of a promise cannot be said to be a false promise. To establish a false promise, the maker of the promise should have had no intention of upholding his word at the time of giving it..."

" 10. Further, the Court has observed:

"To summarise the legal position that emerges from the above cases, the "consent" of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the "consent" was vitiated by a "misconception of fact" arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false

promise itself must be of immediate relevance, or bear a direct nexus to the woman's decision to engage in the sexual act."

11. *Bearing in mind the tests which have been enunciated in the above decision, we are of the view that even assuming that all the allegations in the FIR are correct for the purposes of considering the application for quashing under Section 482 of CrPC, no offence has been established. There is no allegation to the effect that the promise to marry given to the second respondent was false at the inception. On the contrary, it would appear from the contents of the FIR that there was a subsequent refusal on the part of the appellant to marry the second respondent which gave rise to the registration of the FIR. On these facts, we are of the view that the High Court was in error in declining to entertain the petition under Section 482 of CrPC on the basis that it was only the evidence at trial which would lead to a determination as to whether an offence was established."* (Emphasis supplied)

that in case of long-standing sexual relationship between the couple, if there is no allegation to the fact that the promise to marry was given without having any intention to uphold such promise at the time of giving it, then it will not amount to a false promise.

8. Now coming to the facts of the case, there is absolutely no allegation against the petitioner that the petitioner had no intention to marry the victim at the time of promising to marry her.

9. Under such circumstances, keeping in view the admitted case of the informant, that she was having physical relationship with the petitioner for four years and in the absence of any allegation that petitioner has no intention to marry the victim at the time of promising to marry her; as also the fact that both the victim and the petitioner were major persons, at the time of alleged

occurrence, this Court is of the considered view that even if the entire allegation are considered to be true in their entirety, still, the offence punishable under Section 376 of Indian Penal Code is not made out.

10. So far as the other offences are concerned, in view of the compromise between the parties, there is no chance of conviction of the petitioner as the informant does not want to proceed with the case.

11. Under such circumstances, this Court is of the considered view that continuation of the criminal proceeding against the petitioner will amount to abuse of process of law and this is a fit case where the entire criminal proceeding along with the FIR in connection with Tetulmari P.S. Case No. 29 of 2023, corresponding to Sessions Trial No. 765 of 2023 and G.R. No. 2099 of 2023 as also the entire charge sheet be quashed and set aside.

12. Accordingly, the entire criminal proceeding along with the FIR in connection with Tetulmari P.S. Case No. 29 of 2023, corresponding to Sessions Trial No. 765 of 2023 and G.R. No. 2099 of 2023 as also the entire charge sheet is quashed and set aside.

13. In the result, this criminal miscellaneous petition is allowed.

14. Consequently, Interlocutory Application No. 3704 of 2025 is disposed of.

(Anil Kumar Choudhary, J.)