



2026:UHC:4432

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p data-bbox="691 376 943 405"><u>C482/710/2022</u></p> <p data-bbox="691 450 1166 488"><b><u>Hon'ble Alok Mahra, J.</u></b></p> <p data-bbox="691 533 1509 616">Mr. Sandeep Kothari, learned counsel for the applicant.</p> <p data-bbox="691 638 1509 721">2. Mr. Manoj Bhatt, learned Brief Holder for the State.</p> <p data-bbox="691 743 1509 826">3. Mr. Naman Kamboj, learned counsel for respondent no.2 through Video Conferencing.</p> <p data-bbox="691 848 1509 1178">4. Present C-528 application has been filed to quash the cognizance order dated 10.03.2021 passed by learned Chief Judicial Magistrate, Dehradun in Criminal Case No.2139 of 2021 under Section 376 I.P.C. as well as the entire criminal proceedings of the aforesaid case.</p> <p data-bbox="691 1200 1509 2107">5. Learned counsel for the applicant would submit that an FIR was lodged by the complainant alleging that her maternal aunt (Mami) told her that she could arrange her marriage with the son of her elder sister and after the initial marriage talks, the aunt shared the mobile numbers of the applicant and the informant, and they started talking to each other over the phone. It is alleged that during these conversations, the informant met the applicant in a hotel in July and during this period, the applicant also spoke with the informant's parents, who were agreeable to the proposed marriage. It is further alleged that the informant met the applicant again in a hotel, thereafter, it was decided that the applicant's parents would visit the informant's house to finalize the marriage. The informant also alleges that, on</p>



the promise of marriage, the applicant established physical relations with her but later refused to marry her. After investigation, the Investigating Officer submitted a chargesheet, and the learned trial court took cognizance against the applicant.

6. Learned counsel for the applicant would further submit that although the marriage proposal was initially initiated through the informant's aunt, the families later did not agree to the marriage; that, the allegation of physical relations or sexual intercourse in any hotel is completely false and has been made only to pressurize the applicant into marrying the informant; that, there is no evidence to support these allegations; that, after the FIR was lodged, the informant was medically examined, and no injuries suggestive of forceful sexual intercourse were found and the medical report does not support the prosecution case.

7. Learned counsel further submits that there is nothing on record to show that the applicant had any intention from the beginning to deceive the informant; that, both the applicant and the informant were major at the time of the alleged incident; that, even if it is assumed that physical relations were established between them, the same were consensual in nature; that, the informant's maternal aunt had assured her that she would arrange the marriage with the applicant.

8. Learned counsel further submits that the Investigating Officer conducted the investigation in a routine and mechanical manner and submitted the chargesheet without properly examining the facts of the



			<p>case; that, on the basis of such chargesheet, the learned trial court took cognizance; that, the allegations contained in the FIR, the statements of the victim and other material collected during investigation, even if accepted in their entirety, do not disclose the commission of an offence under Section 376 IPC against the applicant, therefore, the entire criminal proceedings are unsustainable in the eyes of law and are liable to be quashed.</p> <p>9. Learned counsel for respondent no. 2 strongly opposed the application. However, he did not dispute the submission of the applicant's counsel that marriage talks between the applicant and the informant were going on at the time of the alleged incident. He further submitted that the victim has now married another person.</p> <p>10. Heard learned counsel for the parties and perused the material available on record.</p> <p>11. It is undisputed that both the applicant and the victim were major and consenting adults and they came into contact through relatives and that marriage talks were going on between their families. They remained in contact for a considerable time and met each other on several occasions.</p> <p>12. The main issue is whether the applicant made a false promise of marriage from the beginning only to obtain the victim's consent for a physical relationship. Mere refusal to marry later or failure of marriage talks does not amount to rape. For an offence under Section 376 IPC, it must be shown that the promise to marry was false from the very beginning and that the victim consented solely because of that false promise.</p> <p>13. The record shows that marriage</p>
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negotiations were actually taking place between the families. Therefore, the allegations indicate a consensual relationship between two adults during the period when marriage talks were continuing. Even if the allegations are accepted as true, they do not prima facie disclose the ingredients of an offence under Section 376 IPC.

14. The Hon'ble Supreme Court in *Pramod Suryabhan Pawar v. State of Maharashtra* (2019) 9 SCC 608, *Maheshwar Tigga v. State of Jharkhand* (2020) 10 SCC 108, and *Sonu @ Subhash Kumar v. State of Uttar Pradesh* (2021) 5 SCC 738, has consistently held that a distinction must be made between a promise of marriage that is false from the very inception and a genuine promise that subsequently could not be fulfilled. In the absence of material showing that the accused never intended to marry the prosecutrix at the time the promise was made, the offence of rape on the ground of consent obtained by misconception of fact is not made out.

15. In view of the facts and circumstances of the case, the cognizance order dated 10.03.2021 passed by the learned Chief Judicial Magistrate, Dehradun in Criminal Case No. 2139 of 2021 under Section 376 IPC, as well as the entire proceedings of the aforesaid criminal case, are hereby quashed.

16. Accordingly, C-482 application is allowed.

17. Pending applications, if any, stands disposed of.

**(Alok Mahra, J.)**

02.06.2026