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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 373 of 2026

Vishnu Prasad Thakur S/o Chhaganlal Thakur Aged About 24 Years R/o Ward No.5, 256, Chouk, Dallirajhara Dist- Balod (C.G.)

... Appellant
In Jail

versus

State Of Chhattisgarh Through- Station House Officer- Police Station- Rajhara Dist- Balod (C.G.)

... Respondent

For Appellant	**:**	Mrs. Meenu Benarjee and Mr. Lalit Jangde, Advocates.
For Respondent/State	**:**	Mr. Ashutosh Shukla, Panel Lawyer.

Hon'ble Shri Justice Naresh Kumar Chandravanshi, J

CAV Judgment

The appellant in this appeal calls in question the legality and validity of the judgment of conviction and order of sentence dated

20.1.2026 passed by Additional Sessions Judge (FTC), Balod in Sessions Trial No.21/2025 whereby the appellant stands convicted under Section 69 of BNS and sentenced to undergo RI for five years, pay a fine of Rs.2000/- and in default thereof, to suffer additional RI for one month.

2. Case of the prosecution, in brief, is that on 10.12.2024, the victim (PW-1) appeared before Police Station Dallirajhara and submitted a written complaint (Ex.P/1), stating that she was in a love relationship with the accused. After the accused had established physical relations with her, he refused to marry her and threatened to circulate her obscene photographs. Consequently, she had earlier lodged a report against the accused. However, since a compromise was subsequently arrived at between them, she withdrew the said case. Thereafter, the accused took her to Bhilai and kept her with him in a rented house for about six months. Subsequently, on 08.08.2024, both of them returned to Rajhara. It is further alleged that after returning to Rajhara, the accused kept the victim in a vacant quarter of the BSP Hospital Sector from 08.08.2024 to 01.11.2024 and, on the promise of marrying her, established physical relations with her during the said period. It is also alleged that the accused, while under the influence of alcohol, assaulted her and abused her in filthy language. As a result of the physical relations established by the accused, the victim became two months pregnant. On the basis of the aforesaid written complaint (Ex.P/1) submitted by the victim (PW-1), FIR (Ex.P/2) was registered at

Police Station Dallirajhara as Crime No.340/2024 against the accused for offences punishable under Sections 69, 296 and 115(2) of BNS. During the course of investigation, the accused and the victim were medically examined and the statement of the victim was recorded under Section 183 of the BNSS. Upon finding sufficient material against the accused, he was arrested. After completion of the investigation, a charge-sheet was filed against the accused for the offences punishable under Sections 69, 296 and 115(2) of the BNS before the Court of Judicial Magistrate First Class, Dallirajhara, from where, after committal, the case was received by Additional Sessions Judge (FTC), Balod for trial.

3. Learned trial Court framed charges under Sections 69, 296, 115(2) of BNS against the accused/appellant, which were abjured by him and he prayed for trial. In order to substantiate its case the prosecution examined 12 witnesses in all and exhibited 69 documents along with two articles. Statement of the accused was recorded u/s 351 of BNSS wherein he denied all the incriminating circumstances appearing against him in the prosecution case, pleaded innocence and false implication. In his defence, he examined Seeta Goswami, Assistant Sub Inspector (DW-1) and exhibited 06 documents.

4. After hearing counsel for the respective parties and appreciation of oral and documentary evidence on record, the learned trial Court while acquitting the accused/appellant of the charges under Sections

296 and 115(2) of BNS, convicted and sentenced him as mentioned in the opening paragraph of this judgment. Hence this appeal.

5. Learned counsel for the appellant would submit that the impugned judgment is per se illegal and contrary to the material available on record. She submits that the victim, a lady aged about 19 years at the time of incident, has admitted that she was in love relationship with the accused/appellant since 2022 and earlier also she had lodged an FIR against the appellant for the offence of rape as he had made their personal photographs viral, in which she turned hostile and as a result thereof, the appellant was acquitted. Learned counsel further submits that subsequently again the victim came in contact with the appellant in 2024 and lived with him from 8.8.2024 to 1.11.2024 as husband and wife since they had performed marriage in a temple. Thus, they were in relation for more than three years, which was purely consensual and not deceitful. She submits that their relationship was not under the false promise of marriage, the appellant had, in fact, performed marriage with her in a temple by putting vermillion on her hair parting and if the marriage was not as per Hindu rituals, the victim, who is a major lady, should have refused subsequent relation with him but she continued to live with him as husband and wife for a long period which itself shows that their physical relationship was completely consensual out of her own free will and consent. She submits that in these circumstances, the learned trial Court was not

justified in holding the appellant guilty under Section 69 of BNS. Hence the appeal may be allowed and the appellant be acquitted of the charge leveled against him.

6. Per contra, learned counsel appearing for the State supports the impugned judgment and submits that the learned trial Court considering the oral and documentary evidence on record has rightly held the appellant guilty under Section 69 of BNS. As such, there is no scope for any interference by this Court and the appeal being bereft of any substance is liable to be dismissed.

7. Heard learned counsel for the parties and perused the material available on record.

8. Perusal of deposition of the victim (PW-1) recorded in the instant case, her earlier deposition (Ex.D/1), complaint (Ex.D/2) and her police statement (Ex.D/3) recorded in Sessions Trial No.55/2022, would go to show that earlier in the year 2022 she had lodged an FIR against the appellant in respect of her sexual exploitation by the appellant on the pretext of marriage. In para 11 of her cross-examination in the instant case, she admitted that in Sessions Trial No.55/2022 she had turned hostile, therefore, the appellant was acquitted in that case. Though she has stated in cross-examination that the appellant had told her that he will marry her, therefore, she turned hostile but it appears from her statement recorded in both the cases that she was in physical relation with the appellant since 2022 till 2024. She admitted in para 11 that

while the appellant was in jail in connection with Sessions Trial No.55/2022 she used to go there to meet him. The aforesaid facts also get due support from the depositions of PW-2 and PW-3, mother and sister of the victim respectively.

9. Prior to the enactment of the Bharatiya Nyaya Sanhita, 2023, there was no specific statutory provision creating an offence for obtaining or maintaining sexual relations with a woman on the false promise of marriage. The Bharatiya Nyaya Sanhita, 2023 has, for the first time, introduced a specific provision in this regard under Section 69, which criminalises sexual intercourse with a woman by deceitful means, including by making a promise to marry without any intention of fulfilling such promise. Section 69 of BNS reads as under:

> **"69. Sexual intercourse by employing deceitful means, etc.—** Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.
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> **Explanation.—** "Deceitful means" shall include inducement for, or false promise of employment or promotion, or marrying by suppressing identity."

10. From perusal of the aforesaid provision, it is clear that if a woman is sexually exploited by deceitful means or by making promise to marry her without any intention of fulfilling the same, then this act

shall be punishable under Section 69 of BNS. Thus, the basic ingredients for attracting the offence under this section is, firstly deceitful means, or secondly, by making promise to marry her without any intention of fulfilling the same.

11. The principal question which arises for consideration is whether the prosecution has been able to establish beyond reasonable doubt that the appellant had sexual intercourse with the victim by deceitful means or making a promise to marry her without any intention of fulfilling such promise, so as to attract the ingredients of Section 69 of BNS, 2023.

12. Section 69 of the BNS penalizes sexual intercourse by employing deceitful means or by making a promise to marry a woman without any intention of fulfilling the same, where such sexual intercourse does not amount to rape. Thus, in a prosecution founded upon a promise to marry, the mere existence of a promise to marry followed by failure to marry is not, by itself, sufficient to establish the offence. The prosecution must establish the essential element of deception, namely, that the promise was false and was made without any intention of being fulfilled and that such promise operated as the inducement for the sexual relationship.

13. In this regard, it becomes relevant to refer to the decision of the Hon’ble Supreme Court in the case of ***Mahesh Damu Khare vs. State***

of Maharashtra, (2024) 11 SCC 398, ***("Mahesh Damu")*** wherein the following observations were made:

> "27. In our view, if a man is accused of having sexual relationship by making a false promise of marriage and if he is to be held criminally liable, any such physical relationship must be traceable directly to the false promise made and not qualified by other circumstances or consideration, A woman may have reasons to have physical relationship other than the promise of marriage made by the man, such as personal liking for the male partner without insisting upon formal marital ties.
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> 28. Thus, in a situation where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said physical relationship was purely because of the alleged promise made by the appellant to marry her. Thus, unless it can be shown that the physical relationship was purely because of the promise of marriage, thereby having a direct nexus with the physical relationship without being influenced by any other consideration, it cannot be said that there was vitiation of consent under misconception of fact."

14. Recently, while considering Section 69 of the BNS, the Hon'ble Supreme Court in ***Kunal Rameshbhai Kalyani v. State of Gujarat*****, 2026 INSC 987**, held that there must be adequate material to establish that the accused had no intention whatsoever of fulfilling the promise to marry from the very inception. A subsequent failure to marry cannot, by itself, retrospectively convert a genuine promise into a false one.

15. Tested on the aforesaid legal standard, the evidence led by the prosecution does not inspire confidence to the extent necessary for

sustaining the conviction under Section 69 of the BNS. The testimony of PW-1/victim itself discloses that her relationship with the appellant was not of a short duration or confined to a single assurance followed immediately by a physical relationship. According to her own testimony, she came into contact with the appellant in the year 2022, accepted his proposal of love on 14.02.2022 and remained in a relationship with him thereafter. She further admitted that when the appellant was in jail in connection with the earlier case, she used to visit him and that he had told her that he would marry her and asked her to withdraw the case. She thereafter withdrew the earlier case. This part of the testimony assumes considerable significance. The earlier prosecution itself arose out of the relationship between the same parties. The victim admitted that she had subsequently stated before the Court on 11.04.2023 that no incident had occurred, pursuant to which the appellant was acquitted in that case. Her explanation that she had made such statement because the appellant had promised to marry her may explain her conduct to some extent; nevertheless, it demonstrates that the relationship between the parties continued over a considerable period and that the question of marriage was repeatedly being discussed between them. It does not, however, establish that the appellant, at the inception of the relationship, had no intention whatsoever to marry her. On the contrary, the subsequent conduct of the parties is relevant in determining whether the alleged promise was inherently false from its inception.

16. The victim herself admitted that after the appellant was released from jail, she lived with him in a rented accommodation at Bhilai for about six months. PW-3, her sister, also admitted in cross-examination that the appellant and the victim lived together at Bhilai as husband and wife. The victim further admitted that during her stay at Bhilai she was working as a computer operator while the appellant was doing labour work. There is no allegation that during the entire period of approximately six months at Bhilai, the victim lodged any complaint alleging that the appellant had obtained sexual relations with her by a false promise of marriage.

17. More importantly, the evidence on record shows that the relationship between the parties had progressed to the stage where the victim herself treated the appellant as her husband. In her cross-examination, she admitted that on 09.11.2024 she submitted an application before the Women's Cell, Balod seeking counselling in relation to her husband. The said document is Ex.D/2. She also admitted that in the said application she had described the appellant as her husband. Though she subsequently attempted to explain that she had written so at the instance of the Women's Cell, but the document remains a contemporaneous circumstance which cannot be brushed aside altogether.

18. The victim further admitted that she herself went to the Women's Cell, Balod along with her mother because she wanted the appellant

and his parents to come into contact with her and that she desired that the appellant should live with her. Her mother (PW-2) also admitted in cross-examination that she and the victim had gone to the Women's Cell because they wanted the appellant and the victim to live together. Such conduct is difficult to reconcile with the prosecution theory that the appellant had, from the very inception, deceitfully induced the victim into a sexual relationship on a promise which he never intended to fulfill.

19. There is yet another important circumstance. The victim's sister (PW-3) categorically stated in her examination-in-chief that the appellant had taken the victim to Rajhara temple, filled vermilion in her hair parting and thereafter kept her with him at Bhilai for about six months. Though the victim has attempted to describe this act as merely putting vermilion in her hair parting and has disputed that a valid marriage took place, but the fact that such ceremony was admittedly asserted by the defence and is also spoken to by PW-3 cannot be completely ignored while determining the appellant's intention. The appellant, in his statement under Section 351 of the BNSS, has consistently taken the defence that he had married the victim on 27.05.2024 at Rajhara Baba Temple and thereafter they lived together as husband and wife at Bhilai and Dallirajhara.

20. It is true that the victim has stated that the appellant repeatedly postponed the marriage and subsequently refused to accept her and

the child. She has also alleged that the appellant subjected her to physical assault and established sexual relations against her will. However, these allegations, even if taken into consideration, primarily indicate that the relationship subsequently deteriorated and that a dispute arose between the parties regarding marriage and their continued cohabitation. They do not, by themselves, establish the crucial fact that when the appellant initially represented that he would marry the victim, he had no intention of doing so.

21. The evidence of PW-2 and PW-3 also suffers from material omissions. PW-10, the Investigating Officer, admitted in his cross-examination that the victim's mother had not stated in her police statement several material facts subsequently introduced by her in Court, including that the appellant had established physical relations with the victim at Bhilai, assaulted her when she asked him to marry her, left her after learning of the pregnancy and that the family members had refused to accept her. Similarly, the Investigating Officer admitted that the victim's sister had not stated in her police statement that the appellant had been postponing the marriage while they were at Bhilai, nor had she stated that the appellant had assaulted the victim and thereafter abandoned her in the premises. These omissions become material because the prosecution principally rests upon the testimony of the victim and her close relatives. The medical evidence does establish the possibility of sexual intercourse and the victim's pregnancy, but it does not establish that the sexual relationship was

brought about by a false promise of marriage. PW-5, the doctor who examined the victim, specifically stated that the victim had no external or internal injury on her body or private parts. The medical evidence, therefore, does not furnish independent corroboration of the allegation that the sexual acts were forcibly committed upon the victim.

22. Likewise, the evidence regarding the pregnancy and subsequent DNA examination may establish the biological relationship, but it does not establish the mental state of the appellant at the time when the alleged promise of marriage was made. The fact that the appellant was found capable of sexual intercourse, or that biological material was found, cannot by itself establish the statutory ingredient of deceit under Section 69 of the BNS.

23. The conduct of the victim after the alleged promise is also a relevant circumstance. She continued to live with the appellant for several months at Bhilai, subsequently lived with him at Dallirajhara, approached the Women's Cell seeking that they should live together, described him as her husband in her application and, even after the relationship had deteriorated, initially sought intervention for restoration of the relationship rather than immediately alleging that the entire relationship had been founded upon a false promise from the beginning. It is also significant that the victim herself admitted that the appellant had earlier promised to marry her while he was in custody in the previous case and that she withdrew that case thereafter. Thus, the

promise of marriage was not an isolated representation made immediately before the alleged sexual relationship in 2024. The parties had been in a continuing relationship since 2022, had repeatedly discussed marriage and subsequently lived together for a substantial period. In such circumstances, the prosecution was required to place convincing evidence demonstrating that, notwithstanding such conduct, the appellant never intended to marry the victim and had deliberately used the promise merely as a device to obtain sexual relations. Such evidence is lacking.

24. The principle that subsequent refusal to marry cannot, by itself, establish that the earlier promise was false from its inception assumes particular importance in the present case. Section 69 of the BNS does not criminalise every failed relationship or every instance in which a person subsequently refuses to marry. The gravamen of the offence is the deceitful promise made without intention of fulfillment. The distinction is between a promise which was false when made and a promise which, though genuine when made, was subsequently not fulfilled. The former attracts the penal provision; the latter, without proof of the requisite dishonest intention at inception, does not.

25. In the present case, the prosecution evidence, when considered cumulatively, does not establish beyond reasonable doubt that the appellant had no intention to marry the victim when the relationship commenced or when the alleged promise was made. Rather, the

evidence reveals a prolonged love relationship, repeated assurances of marriage, continued cohabitation, the alleged temple ceremony, the victim's conduct in treating the appellant as her husband, her application before the Women's Cell seeking that they live together, and the subsequent deterioration of the relationship. These circumstances are at least equally consistent with the possibility that the parties were in a consensual relationship which subsequently turned sour and that the appellant subsequently declined to continue the relationship.

26. This Court is conscious that the testimony of a prosecutrix in a case of sexual offence, if found trustworthy and reliable, can by itself form the basis of conviction and does not require corroboration as a matter of law. However, in the present case, the question is not merely whether the victim's allegation of a sexual relationship can be accepted. The crucial question is whether the prosecution has proved the specific statutory nexus between the sexual relationship and a promise to marry which was made without intention of fulfillment. On a careful assessment of the evidence, that essential ingredient has not been proved beyond reasonable doubt.

27. The learned trial Court, while recording conviction, appears to have attached decisive significance to the subsequent refusal of the appellant to marry the victim and to the allegation that the appellant had established physical relations by assuring marriage. However, the

subsequent refusal, considered in isolation, cannot establish the appellant's state of mind at the inception of the relationship. The surrounding circumstances and the conduct of the parties must necessarily be examined to determine whether the promise was false when made. In my considered view, the circumstances brought on record do not furnish the degree of certainty required in a criminal trial to conclude that the appellant had entered into the relationship with a pre-existing dishonest intention never to marry the victim.

28. The defence taken by the appellant that the parties had undergone a marriage ceremony at Rajhara Baba Temple on 27.05.2024 cannot be rejected merely because the prosecution disputes the legal validity of such ceremony. Even assuming, for the sake of argument, that the ceremony did not constitute a legally valid Hindu marriage, the appellant's conduct in participating in such ceremony, thereafter residing with the victim for about six months at Bhilai and subsequently continuing to reside with her at Dallirajhara, constitutes a relevant circumstance bearing upon his intention to marry. It substantially weakens the prosecution allegation that the promise of marriage was merely a deceptive device from its inception.

29. The Hon’ble Supreme Court has emphasized that where the material on record indicates a consensual relationship and does not establish deceitful inducement, the mere fact that the relationship

subsequently failed or that the accused later refused to marry cannot attract the penal consequence attached to a false promise of marriage.

30. Thus, on an overall appreciation of the evidence, this Court finds that the prosecution has failed to establish beyond reasonable doubt the foundational ingredient of Section 69 of the BNS, namely, that the appellant made a promise to marry the victim without any intention of fulfilling it and induced the sexual relationship by such deceitful promise. The evidence, at its highest, establishes that the parties were in a prolonged intimate relationship, lived together for considerable periods and that the relationship subsequently became strained on the question of marriage and acceptance of the victim.

31. It is a settled principle of criminal jurisprudence that where two views are reasonably possible on the evidence, the view favourable to the accused must be adopted. Suspicion, however strong, cannot substitute proof beyond reasonable doubt. In the present case, the prosecution evidence falls short of proving the essential ingredient of Section 69 of the BNS beyond reasonable doubt.

32. Resultantly, the appeal is allowed. The impugned judgment of conviction and order of sentence dated 20.01.2026 passed by the learned Additional Sessions Judge (FTC), Balod in Sessions Trial No.21/2025, convicting and sentencing the appellant under Section 69 of BNS, are hereby set aside and the appellant is acquitted of the said charge by extending him the benefit of doubt.

33. The appellant is reported to be in jail, therefore, he shall be set at liberty forthwith, if not required in any other case. The fine amount, if deposited, shall be refunded to him.

34. However, keeping in view the provisions of Section 481 of BNSS, 2023, the appellant is also directed to furnish a personal bond for a sum of Rs.25,000/- with one surety in the like amount before the Court concerned which shall be effective for a period of six months alongwith an undertaking that in the event of filing of special leave petition against the instant judgment or for grant of leave, the aforesaid appellant on receipt of notice thereon shall appear before the Hon'ble Supreme Court.

35. The record of the trial Court along with copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action. A copy of this judgment be also forwarded to the concerned Jail Superintendent for information and necessary action.

Sd/

(Naresh Kumar Chandravanshi)

Judge

MOHD AKHTAR KHAN
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