



HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 1248 of 2022 **(under Section 482 of Cr.P.C.)**

Ankush Sehgal

--Applicant

Versus

State of Uttarakhand and Another

--Respondents

Presence:-

Mr. Pankaj Kumar Sharma, learned counsel for the applicant.

Mr. Rakesh Kumar Joshi, learned AGA assisted by Mr. M.C. Bhatt,
learned Brief Holder for the State.

Mr. Rajendra Arya, legal Aid Counsel for the respondent no.2.

Hon'ble Siddhartha Sah, J.

By means of the present Criminal Miscellaneous Application filed under Section 482 of the Cr.P.C., the applicant has sought quashing of the charge sheet dated 04.05.2021, the cognizance/summoning order dated 22.09.2021, along with the entire proceedings of Criminal Case No.4749 of 2021 arising out of FIR No.62/2021, 'State Vs. Ankush Sehgal', under Section 376 of the IPC, Police Station Kathgodam, District Nainital, pending before the Additional Chief Judicial Magistrate, Haldwani, District Nainital.

2. In brief, the facts of the case are that the respondent number 2/victim/informant lodged an FIR at Police Station Kathgodam, District Nainital, on 09.03.2021 with the allegations that in August 2019, the complainant, through a dating site 'Tinder app', came in contact with the applicant and became very good friends and started to have conversation through phone and



during said friendship, one day the applicant came to Haldwani and met the complainant, and they went to visit Bhimtal and Hanuman Dham.

3. It is further alleged in the FIR that on the next day, the applicant and complainant went to the hotel where the applicant was staying, both of them consumed liquor and while both of them were under intoxication, the applicant made physical relations with the complainant, though he had promised her not to commit any wrong.

4. It is the further allegation in the FIR that thereafter, the applicant assured the informant/victim of marrying her and since thereafter, the applicant used to come frequently to visit the informant/respondent no.2 on every second and fourth Sunday and relations used to be made between them. But since lockdown and thereafter, the applicant started to neglect the complainant and refused to marry her on the excuses of ill health of his father.

5. The informant/respondent no. 2 also contacted the family of the applicant, but they did not help her. In the FIR, it is further alleged that through Instagram, the respondent no.2/informant came to know that the applicant has been engaged and thus the FIR has been lodged with the allegations that on the false pretext of marriage, the applicant made physical relations with her and now is getting married somewhere else. The said FIR was registered at Police Station Kathgodam as FIR No. 62 of 2021 on 09.03.2021 under Section 376 of IPC.

6. In pursuance to the aforesaid FIR, investigation ensued and in the course of investigation, statements of the victim/respondent no.2 were recorded



under Section 161 of the Cr.P.C., in which the victim/respondent no.2 reiterated her allegations in the FIR. However, in the statements under Section 161 of the Cr.P.C., the date when the applicant and the respondent no.2 first made physical relations was disclosed as 11.09.2019.

7. In her statements under Section 164 of the Cr.P.C., the respondent no.2/victim reiterated the FIR version, but disclosed that the applicant made physical relations with her on the false pretext of marriage, but after March, 2020, his attitude changed, and he refused to marry.

8. Based on the material collected during investigation, the Investigating Officer submitted the charge sheet against the applicant on 04.05.2021, and on the basis of the charge sheet, the Additional Chief Judicial Magistrate, Haldwani, District Nainital, took cognizance against the applicant/accused and summoned the applicant/accused by order dated 22.09.2021.

9. Assailing the charge sheet and the summoning order, the counsel for the applicant would submit that after his implication in the FIR, the applicant approached this court by means of filing a Criminal Writ Petition bearing no. 533 of 2021, and in that case, an interim order was granted to the applicant, considering the statements under Section 164 of the Cr.P.C. of the respondent no.2, which indicates that respondent no.2 was a consenting party.

10. It is further submitted on behalf of the applicant that perusal of the FIR shows that the complainant came in contact with the applicant through



social website named 'Tinder app', which is not a matrimonial site, but is a popular site among youngsters, and the said website is meant for making friends.

11. It is further submitted as such from the very first date of contact of the respondent no.2 and applicant through the said Tinder app, it was mutual understanding that there would be no compulsion of marriage in starting relationship, and both of them on their consent made relations with each other and it is vague and misleading to allege that applicant on the pretext of marriage has developed physical relations.

12. The perusal of the FIR shows that on the very first occasion, when allegedly the physical relations were made between the parties, both were not in their senses and as they had consumed liquor. The bare reading of FIR makes it clear that whatever relations were developed between the parties, the same were based on free consent of the complainant. The applicant has never made any promise of marriage with the complainant, and the allegations are false, baseless and vague.

13. Since the very basis of the contact between the parties is a mobile app which is specifically meant for youngsters to make relations and friendship with the person of their choice, and as such, it is not the case of the respondent no.2 since beginning that she contacted the applicant for the purpose of marriage, as the said site is not a matrimonial website.

14. It is further argued on behalf of the applicant that the perusal of the FIR shows that no specific date and time has been mentioned in the FIR of any alleged incident, and the entire allegations appear to be afterthought and concocted, and the said allegations are



outcome of annoyance of the respondent no.2 due to breakup of their relations.

15. It is also submitted that there is unexplained delay of one year and seven months in lodging the FIR, and the FIR has been lodged only when the respondent no.2 came to know about the engagement of the applicant, which shows that only due to annoyance of the engagement of applicant, the respondent no.2 has lodged the FIR just to create pressure on the applicant.

16. It is also submitted that even the medical evidence does not corroborate the allegations as levelled in the FIR, inasmuch as the respondent no.2 had refused for any internal examination.

17. It is also submitted on behalf of the applicant that no offence is made out against the applicant and, moreover, in the recent judgments of the Hon'ble Supreme Court, it has been held that the physical relations on consent on the pretext of promise to marry would not be termed as rape, if the said promise could not materialize in marriage. Except vague and bald oral allegations made by the complainant, there are no other corroborative evidence against the applicant in the entire case file.

18. The applicant has never made any promise to the respondent no.2 for marriage and, in fact, the respondent no.2 only with a view to pressurize the applicant, either for marriage or to extract money, has lodged the impugned FIR.

19. It is further submitted that the continuance of proceedings in the aforesaid backdrop would be the sheer abuse of process of law and, in the facts and circumstances of the case, the summoning order and the



charge sheet deserve to be quashed.

20. Per contra, learned counsel for the respondent no.2, Mr. Rajendra Arya, would not deny that the applicant and the respondent no.2 met each other through the Tinder app, which is in fact the case of the respondent no.2 in her allegation in the FIR itself, and he would also not deny that the first incident of physical relationship between the applicant and the respondent no.2 was made under the influence of liquor.

21. He would also not deny that in the FIR, there are no specific dates about the false promise to marry or when the refusal was actually made by the applicant. However, he would submit that the relations were made by the applicant with the respondent no.2 under the false pretext of marriage, and therefore, the offence under Section 376 of the IPC is made out, and therefore, there is no scope for interference.

22. Learned AGA for the State, Mr. Rakesh Kumar Joshi, would submit that in her statements under Section 161 and 164 of the Cr.P.C., the victim/respondent no.2 has supported the prosecution case. However, he would not dispute that the physical relationship between the applicant and the respondent no.2 was made with consent. However, the physical relations were later continued on the false pretext of marriage, and hence, Section 376 of the IPC would be attracted, and hence, there is no scope for interference and the Criminal Miscellaneous Application under Section 482 of the Cr.P.C. deserves to be dismissed.

23. After hearing the learned counsel for the parties and going through the records, it is amply clear from the FIR and in fact the statements under Section



161 of the Cr.P.C. and Section 164 of the Cr.P.C. that the applicant and the respondent no.2 came in contact with each other through Tinder app and in September, 2019, the applicant came to meet the respondent no.2 in Haldwani, and both consumed liquor and entered into physical relationship.

24. It is the allegation of the respondent no.2 that thereafter, the applicant continued making physical relations with her on the false pretext of marriage and ultimately, she was compelled to lodge the FIR against the applicant, when she came to know through Instagram that the applicant was engaged and was to marry elsewhere.

25. The question then falls for determination of this Court in this case would be whether in such a background facts, whether the charge sheet and the summoning order under Section 376 of the IPC are justified.

26. In the present case, it would be apt to refer to the judgment of the Hon'ble Apex Court in the case of **Biswajyoti Chatterjee Vs. State of West Bengal and Another**, reported in **(2025) 5 SCC 749**, and reference needs to be made to paragraph 23 of the said judgment which is being extracted herein under:

"23. In our considered view, considering the factual matrix of the case, it is clear that the physical relationship between the complainant and the appellant was consensual, and cannot be said to be without her consent or against her will. In light of the aforesaid, we are also of the considered opinion that it would be in the interest of justice if the proceedings are



terminated at this stage itself. Consequently, the impugned order of the High Court dated 23.02.2024 passed by the Hon'ble High Court of Calcutta in Biswajyoti Chatterjee, In re [Biswajyoti Chatterjee, In re, 2024 SCC OnLine Cal 12045] is set aside. The special leave petition/criminal appeal is accordingly allowed."

27. Another judgment of the Hon'ble Apex Court in this regard is in the case of **Samadhan Vs. State of Maharashtra and Another**, reported in **2025 SCC OnLine SC 2528**, and reference needs to be made to paragraph nos. 28, 29, and 40 thereof, which are being extracted herein under:-

"28. We find that the present case is not a case where the appellant lured respondent No. 2 solely for physical pleasures and then vanished. The relationship continued for a period of three long years, which is a considerable period of time. They remained close and emotionally involved. In such cases, physical intimacy that occurred during the course of a functioning relationship cannot be retrospectively branded as instances of offence of rape merely because the relationship failed to culminate in marriage.

29. This Court has, on numerous occasions, taken note of the disquieting tendency wherein failed or broken relationships are given the colour of criminality. The offence of rape, being of the gravest kind, must be invoked only in cases where there exists genuine sexual violence, coercion, or absence of free consent. To convert every sour relationship into an offence of rape not only trivialises the seriousness of the offence but also inflicts upon the



accused indelible stigma and grave injustice. Such instances transcend the realm of mere personal discord. The misuse of the criminal justice machinery in this regard is a matter of profound concern and calls for condemnation.

40. In view of the foregoing analysis, we are unable to concur with the findings recorded by the High Court, inasmuch as the present case pertains to a consensual relationship, and the acts of respondent No. 2 clearly manifest consent to such a relationship devoid of any coercion, fraud, or misrepresentation as contemplated in Section 19 of the Indian Contract Act, 1872. In our opinion, the High Court's refusal to exercise its jurisdiction under Section 528 of BNSS is unsustainable. The acts complained of in the present case occurred within the contours of a relationship that was, at the time, voluntary and willing. The continuation of the prosecution in such facts would be nothing short of an abuse of the court machinery.”

28. From the above, it is clear that the respondent no. 2 was a mature person who, out of her own free will and accord, entered into a physical relationship with the applicant. If subsequently, the relationship turns sour and did not culminate in marriage, that by itself cannot be a ground to term the relationship between the parties as one involving physical relationship on the false pretext of marriage.

29. It is also evident from the nature of allegations and the admitted facts that the relationship between the parties continued for a considerable period of time, and the parties were frequently meeting, and the applicant used to visit the respondent no.2 coming all the way from



Saharanpur every second and fourth Saturday.

30. After considering the rival submissions of the learned counsel for the parties and having gone through the record, it is evident that the respondent no.2 entered into a physical relationship with the applicant out of her own free will and accord though she alleges that the relationship was established on a false pretext of marriage. What is submitted on behalf of the applicant appears to be correct that the applicant and the respondent no.2 met each other through the Tinder app, and there was no such alleged promise to marry.

31. In the overall facts and circumstances of the case, and in the light of the settled law as enunciated by the Hon'ble Supreme Court in the cases referred to hereinabove, it is clear that the matter does not appear to be a case of entering into physical relationship by the applicant with the respondent no.2 on the false pretext of marriage. Accordingly, in such circumstances, the further continuation of the proceedings under Section 376 of the IPC against the applicant would amount to an abuse of process of law.

32. Therefore, in exercise of powers under Section 482 of the Cr.P.C. and to secure the ends of justice, the present Criminal Miscellaneous Application filed under Section 482 of the Cr.P.C. deserves to be allowed.

33. The present Criminal Miscellaneous Application under Section 482 Cr.P.C. is allowed, and the impugned charge sheet dated 04.05.2021, the cognizance and summoning order dated 22.09.2021, along with the entire proceedings of Criminal Case No.4749 of 2021 (FIR No.62/2021), 'State versus Ankush Sehgal', under Section 376 IPC, Police Station Kathgodam, District



2026:UHC:5936

Nainital, pending before Additional Chief Judicial Magistrate, Haldwani, District Nainital, are hereby quashed

(Siddhartha Sah, J.)

16.07.2026

JKJ/

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