

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.915 of 2025

Petitioner

Versus

1. The State of Jharkhand
2. Informant (Detail of the Informant is filed in a sealed envelope)

... Opposite Parties

For the Petitioner : Mr. Sudeep Ranjan, Advocate
For the State : Mr. Abhay Kr. Tiwari, Addl.P.P.
For the O.P. No.2 : None

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. Though notice has validly been served upon the opposite party No.2 yet no one turns up on behalf of the opposite party No.2 in spite of repeated calls.

3. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the B.N.S.S., 2023 with the prayer to quash and set aside the entire criminal proceeding including the F.I.R. and the cognizance order dated 16.08.2024 passed by the learned Chief Judicial Magistrate, Giridih in connection with Mahila (Sadar) P.S. Case No.12 of 2023 corresponding to G.R. No.1945 of 2024 by which the learned Magistrate has taken cognizance of the offence punishable under Section 376 (2) (n) of the Indian Penal Code.

4. Learned counsel for the petitioner submits that the case is next fixed to 11.09.2026 for appearance of the accused persons and charge has not yet been framed.

5. The allegation against the petitioner is that the petitioner met the informant- lady at a marriage ceremony of the friend of the informant in the year 2016. Both of them exchanged their mobile numbers and love blossomed between them. The petitioner went near Giridih Railway Station and used to talk to the informant and by promising to marry her, he used to sexually exploit the informant and when the informant was insisting for marriage, the petitioner used to allure the informant to get his work done. Such relationship continued. On 20.12.2022, the petitioner took the informant to Ranchi and kept her in a hotel on 21.12.2022, where he also established physical relationship with the informant and after continuously sexually exploiting the informant-victim for over seven years and ruining the life of the informant, the petitioner severed his relationship with the informant and on 02.04.2023 the petitioner switched off his mobile phone and when the informant talked to the father of the petitioner over phone then the petitioner and his family members abused the informant and refused for the marriage of the informant with the petitioner.

6. On the basis of the written report submitted by the informant, police registered Giridih Mahila (Sadar) P.S. Case No.12 of 2023 and took up the investigation of the case and after completion of the investigation, police submitted charge-sheet and the learned Chief

Judicial Magistrate, Giridih took cognizance of the offence on the basis of the charge-sheet submitted by the police.

7. Learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Mahesh Damu Khare vs. State of Maharashtra & Another** reported in (2024) 11 SCC 398 paragraph-34 of which reads as under:-

"34. In our opinion, the longer the duration of the physical relationship between the partners without protest and insistence by the female partner for marriage would be indicative of a consensual relationship rather than a relationship based on false promise of marriage by the male partner and thus, based on misconception of fact."

and submits that it is a settled principle of law that the longer the duration of the physical relationship between the partners without protest and insistence by the female partner for marriage would be indicative of a consensual relationship rather than a relationship based on false promise of marriage by the male partner.

8. It is next submitted that admittedly, in this case the physical relationship between the parties continued for more than seven years and the informant- victim was a major lady even on the date of first occurrence i.e. in the year 2016 and as is apparent that the F.I.R. has been lodged insisting the marriage of the informant with the petitioner. So, this goes to show that this is a case of consensual physical relationship between two adult persons. Therefore, no offence is made out against the petitioner. Hence, it is submitted that the prayer, as prayed for in this Cr.M.P., be allowed.

9. Learned Addl. P. P. appearing for the State opposes the prayer of the petitioner made in the instant Cr.M.P. and submits that this Cr.M.P., being without any merit, be dismissed.

10. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that there is no specific allegation against petitioner that the petitioner had no intention to marry the informant-victim at the time of establishing physical relationship with the victim. It is pertinent to refer to the judgment of the Hon'ble Supreme Court of India in the case of **Pramod Suryabhan Pawan vs. State of Maharashtra & Another** reported in (2019) 9 SCC 608 wherein the Hon'ble Supreme Court of India has observed that 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." (Emphasis supplied)

11. Now, coming to the facts of the case; there is no allegation against the petitioner that the petitioner did not have any intention to marry the informant since the inception when he promised to marry the informant-victim. The undisputed fact remains that the physical relationship between the petitioner and the informant continued for over seven years without any protest by the informant and the reason

for filing the F.I.R. is that the petitioner and his family members refused for the marriage to be solemnized between the petitioner and the informant.

12. Under such circumstances, this Court has no hesitation in holding that the entire allegations made by the informant, even if are considered to be true in their entirety, at the most the same discloses a case of consensual physical relationship between the parties and is insufficient to constitute the offence punishable under Section 376 (2) (n) of the Indian Penal Code. Accordingly, the continuation of this criminal proceeding against the petitioner will amount to abuse of process of law, therefore, this is a fit case where the entire criminal proceeding including the F.I.R. and the cognizance order dated 16.08.2024 passed by the learned Chief Judicial Magistrate, Giridih in connection with Mahila (Sadar) P.S. Case No.12 of 2023 corresponding to G.R. No.1945 of 2024, be quashed and set aside.

13. Accordingly, the entire criminal proceeding including the F.I.R. and the cognizance order dated 16.08.2024 passed by the learned Chief Judicial Magistrate, Giridih in connection with Mahila (Sadar) P.S. Case No.12 of 2023 corresponding to G.R. No.1945 of 2024, is quashed and set aside *qua* the petitioner named above.

14. In the result, this Cr.M.P. stands allowed.

(Anil Kumar Choudhary, J.)