



2026:CGHC:20646-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 839 of 2025

Pankaj Sharma S/o Shri Ramraj Sharma Aged About 32 Years R/o Permanent Address House No. BD 25 Ward No. 4 South Jhagarkhad Kalri New Ledri Badi Dafai District Koriya (C.G.) Present Address Professor Colony Raipur Distt Raipur (C.G.)

... Appellant

versus

State Of Chhattisgarh Through The Station House Officer, Police Station - Mahila Thana Raipur Distt Raipur (C.G.)

... Respondent

For Appellant	:	Mr.Avinash Chand Sahu, Advocate
For Respondent	:	Mr.Ashish Shukla, Additional Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Per Ramesh Sinha, CJ

4/5/2026

1. Though this criminal appeal has been listed for hearing on I.A. No. 03/2026, which is an application for grant of temporary bail on the ground that the appellant's 8-year-old daughter, namely Sakshi Sharma, is suffering from typhoid fever, severe anemia (+++), a fatty

liver, and symptoms such as fever and vomiting, this Court, considering the fact that the appellant has been in jail since 08.04.2025 and also taking into account the medical grounds, proceeds to hear the appeal finally.

2. The criminal appeal arises out of the judgment of conviction and order of sentence dated 08.04.2025 passed by the Special Judge under SC & ST (P.A.) Act, Raipur, District Raipur in Special Criminal Case No.08/2024, whereby the appellant has been convicted and sentenced in the following manner :

Sl. No.	Conviction	Sentence
1.	Under Section 376(2)(n) of the Indian Penal Code	RI for 10 years and fine of Rs.2000/-, in default of payment of fine to further undergo RI for 2 months.
2.	Under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989	Imprisonment for life and fine of Rs.2000/-, in default of payment of fine to further undergo RI for 2 months.

3. The prosecution story, in brief, is that on 28th August, 2023, the victim (PW-10) submitted a written complaint to the police station Azad Chowk, Raipur, stating that she is a resident of Mandakala, Police Station Hasaud, District Janjgir. In 2014, while on duty at the

hospital, Bilaspur, for her B.Sc. Nursing degree, she met the present appellant, a resident of Raipur and studying engineering. A year after her acquaintance with the accused / appellant, in 2015, the appellant told her that he loved her and wanted to marry her and make her his wife. The victim replied that she belonged to the Satnami caste, to which the accused / appellant replied that it did not matter to him. From then on, the victim and the accused continued to meet and visit each other. For the first time, the accused / appellant took her to his rented house in Brahmanpara, Raipur, and had sexual intercourse with her, promising to marry her and keep her as his wife. After this, the accused / appellant repeatedly visited the victim's residences, took her to various hotels, and had physical relations with her and physically exploited her. Whenever the victim spoke to the accused / appellant about marriage, he would deceive her and promise to marry her, thus convincing her.

4. The victim has also written in her written report that about 6 months ago the accused / appellant had married another girl and on complaining, he again told her that he should also marry her. He had physical relations with the victim for the last time on 14.08.2023 by coming to Jamuna-Jageshwar Hostel, near Chandu Kirana Store, Lily Chowk Purani Basti Sampur and by taking the victim into confidence that he would make her his wife, she was physically exploited and now the accused / appellant is refusing to marry the victim. The accused / appellant exploited the victim by establishing physical relations with her by deceiving her into marriage. The above

written complaint of the victim was sent to Women Police Station Raipur for appropriate action, on which Crime No. 103/2023 was registered by Women Police Station Raipur and after completing the investigation in the case, the charge sheet was presented before the competent criminal Court.

5. The accused / appellant was charged under Section 376 (2) (n) of the Indian Penal Code, 1860 (hereinafter called as "IPC) and Section 3(2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter called as "Atrocities Act"), read out to him and explained to him. He denied the commission of the offence and when he was examined under Section 313 of the Code of Criminal Procedure, he pleaded not guilty.
6. In this case, the prosecution presented in support of its case prosecution witnesses Ashish Sahu (PW-1), Hemant Fenkar (PW-2), Durgesh Sahu (PW-3), Dr. Kiran Dhruv (PW-4), Dr. Anil Kumar Baghel (PW-5), Phageshwari Kanwar (PW-6), Lata Aware (PW-7), Sanjeev Nema (PW-8), Bebi Nanda (PW-9), victim (PW-10), Kiran Kumhariya (PW-11), Barkha Sahu (PW-12), Vedwati Dariyo (PW-13), witness Gautam (PW-14), Deputy Superintendent of Police Lata Mehar (PW-15) and Durgesh Sahu (PW-16) have recorded their statements in the Court, whereas the defence has not presented any evidence in support of its side.
7. Learned Special Judge after appreciating the evidence available on record, vide its judgment dated 8.4.2025 convicted the appellant for

offence under Section 376(2)(n) of the IPC and Section 3(2)(v) of the Atrocities Act and sentenced him as mentioned in para 2 of the said judgment. Hence, this appeal.

8. Learned counsel for the appellant submits that the impugned judgment dated 08.04.2025 is contrary to law, facts, and circumstances of the case and is therefore liable to be set aside. Learned trial Court has failed to appreciate that the alleged incident occurred in the course of a voluntary and consensual relationship between the parties, and the essential ingredients of the offence under Section 375 of the IPC are not made out. The victim was in a relationship with the appellant for a considerable period of about 8 years, and the FIR was lodged only after the appellant's marriage, with no satisfactory explanation for the delay. A perusal of the FIR itself indicates a consensual relationship, as both parties were well acquainted for several years, had exchanged mobile numbers, and remained in continuous contact. The victim is an educated adult who was fully aware of the nature and consequences of such a relationship and entered into it voluntarily. He further submits that learned trial Court failed to properly appreciate the cross-examination of the victim, wherein she admitted awareness that physical relations without marriage are not socially acceptable. No complaint was ever made by the victim during the subsistence of the relationship alleging any forceful physical intercourse. There are material omissions and contradictions in the statements of the victim under Sections 161 CrPC, 164 CrPC, and her deposition before the trial Court, which

have been overlooked by the trial Court. Even in her written complaint, the victim did not allege any instance of forceful physical relations. The victim herself stated that the appellant married another woman due to family pressure, and therefore, there was no false promise or deliberate misrepresentation on his part. Learned trial Court failed to consider documentary evidence (Articles D-1 to D-4), including photographs, which indicate a consensual relationship between the parties. The entirety of the cross-examination reflects a long-standing relationship of love and mutual affection. The victim admitted that they were in regular contact over the phone and had developed a romantic relationship, which negates the allegation of inducement on a false promise of marriage. The victim also admitted that she lived with the appellant for several years, which further establishes the consensual nature of the relationship. In her statement, the victim stated that she agreed to establish physical relations but did not allege that the same was forceful. She further admitted that her written complaint (Ex.P-2) contains no allegation of force. The victim was aware of the appellant's marriage and did not raise any objection or lodge any complaint at that time.

9. Learned counsel also submits that the allegations under the relevant provisions of the Atrocities Act are not made out in the absence of specific averments attracting the said provisions. The mere fact that the victim belongs to a Scheduled Caste/Scheduled Tribe community does not, by itself, attract the provisions of the Atrocities Act, particularly when the relationship was consensual and based on

mutual affection. Learned trial Court erred in convicting the appellant under Section 376(2)(n) IPC without the prosecution having proved its case beyond reasonable doubt. The prosecution has failed to establish its case beyond reasonable doubt, and therefore, the conviction and sentence are liable to be set aside. The learned trial Court failed to properly appreciate the evidence and documents on record in their correct perspective. He contended that learned trial Court failed to consider settled legal principles laid down in judicial precedents, wherein it has been held that if a promise to marry was not false at inception and was not made solely to induce consent, the offence of rape is not made out. In the present case, the victim consented to the relationship out of love and affection, and not solely on account of any alleged misrepresentation by the appellant. It is well settled that to establish an offence based on false promise of marriage, it must be shown that the accused had no intention to marry from the very beginning. A mere failure to fulfil a promise, due to unforeseen or unavoidable circumstances, does not amount to a misconception of fact under Section 90 IPC. In the present case, the evidence does not establish any such initial fraudulent intent on the part of the appellant. As such, criminal appeal deserves to be allowed and the impugned judgment deserves to be set aside.

- 10.** Learned State counsel submits that the victim has consistently and credibly narrated the sequence of events, and her testimony is fully supported by the surrounding circumstances. It is argued that the appellant continuously exploited the victim's trust by giving repeated

assurances of marriage and used this deception to establish physical relations over a prolonged period, which clearly attracts the offence alleged. The delay in lodging the FIR is satisfactorily explained, as the victim acted only after learning of the appellant's impending marriage with another girl. The investigation is complete, the material witnesses support the prosecution case, and no plausible defence has been raised. Hence, the conviction is justified and deserves to be upheld.

11. We have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
12. Since the victim was a major, the question that would arise for consideration is whether the appellant forcibly committed sexual intercourse with her or whether the acts were consensual in nature.
13. PW-4, Dr. Kiran Dhruv, Medical Officer, District Hospital, Kalibadi, Raipur, deposed that during the examination of the victim, she found a black mole on her chin as an identifying mark. The victim stated that she had her last menstrual period on 09.08.2023 and that she had her first menstruation at the age of 14. The victim had developed secondary sexual characteristics. Upon examining the victim's genitals, she found that her hymen was torn. She prepared and sealed two vaginal slides of the victim and handed them over to the same female constable for chemical testing. She has stated in her examination report that she cannot give a definitive opinion regarding

immediate sexual intercourse with the victim without chemical testing of the vaginal slides.

14. The victim (PW-10) stated that about a year after she became acquainted with the accused, the accused came to Bilaspur and said that he love her and want to marry her and make her his wife. She then told the accused that she belong to Satnami caste, to which the accused replied that it does not matter to him what caste she belong to. She began meeting with the accused regularly, and they also began traveling together. In the year 2015, the accused took her for the first time to his rented house in Brahman Para, Raipur, and told her that he would marry her and forcibly had physical relations with her. After this incident, wherever she lived, the accused took her to different hotels and forcibly had physical relations with her and exploited her physically. When she asked the accused to marry her, he deceived her and promised to marry her. She fell for the accused's false promises. In the month of August 2023, 06 months before the incident was reported in the Women's Police Station, Raipur, she came to know that the accused had married another girl. When she objected, he told her that he would marry her too. The last time he forcibly had sex with her was on 14th August, 2023, at Jamuna Jageshwar Hostel, near Chandu Kirana Store, Lily Chowk, Old Basti, Raipur, saying that he will make her his wife. He did not marry her when she asked him to. After filing the report, she came to know the name of the girl whom the accused had married. She is a girl named Sakshi of the same caste as the accused and is a

resident of Shahdol. The accused, after giving her assurance of marriage, forcibly had physical relations with her more than once and the accused had physical relations with her knowing that she belong to Satnami caste and a member of Scheduled Caste category.

15. In para 12 of her cross-examination, the victim admitted that she started talking to the accused on the phone from the year 2014. The witness voluntarily says that the accused used to call her. When the witness was asked that after the conversation started, did she also call him and talk? The witness said that they used to talk together. She admitted that they kept talking on the phone continuously for a year. In para 13 of her cross-examination, she stated that a love affair between her and the accused began at the end of 2014. They began meeting in 2015. When asked, "Whenever they two met, the place was decided in advance," The victim said, "the accused himself would tell her the place." The victim now says, "they only met once or twice after planning. After that, they would meet whenever the accused came to Bilaspur. In para 14 of her cross-examination, she admitted that during their visits, they would go to the garden together and also to the movies. She completed her B.Sc. Nursing in 2016. She further admitted that she had turned 18 in 2014. She also admitted that she knew what was good for her and what was bad for her. She admitted that she knew not to have physical relations with any other man before marriage. In para 15 of her cross-examination, she admitted that she first had physical relations with the accused in 2015 at the accused's rented house in Brahman Para, Raipur. She

further admitted that the accused's rented house is surrounded by a densely populated area, and people live there.

16. Barkha Sahu (PW-12) stated that in 2014, while the accused's mother was admitted to Apollo Hospital, the accused and the victim met and began talking. The victim told her that during their conversations, the accused told her that he loved her and would marry her. The victim told her that the accused, promising to marry her, first had physical relations with her in a rented house in Purani Basti. While the victim and she were pursuing their M.Sc., the accused would come and take her to various hotels in Bhilai, luring her with the promise of marriage, and then forcefully have physical relations with her.
17. It is an admitted position from the deposition of PW-10 that she was a major throughout the period of the alleged relationship. She has categorically admitted in cross-examination that she started talking to the accused on the phone from the year 2014. She admitted that during their visits, they would go to the garden together and also to the movies. She also admitted that she knew what was good for her and what was bad for her. She admitted that she knew not to have physical relations with any other man before marriage. She also admitted that she first had physical relations with the accused in 2015 at the accused's rented house in Brahman Para, Raipur. She further admitted that the accused's rented house is surrounded by a densely populated area, and people live there. These admissions

strongly reflect voluntary participation and negate the allegation of any immediate coercion, force, or deception at the initial stage.

18. Regarding the allegation of forcible intercourse in the year 2015, the victim did not lodge any report. There is no medical evidence, contemporaneous record, or independent witness to support this allegation. The long and unexplained delay seriously erodes the credibility of this allegation. The medical evidence also does not support the prosecution. Dr.Kiran Dhruv (PW-4) found no injuries.
19. It is the trite law that a conviction for rape can be sustained solely on the testimony of the victim, provided that her evidence inspires confidence in the mind of the Court and appears to be natural and truthful. However, if the version given by the victim is inconsistent, unsupported by any medical evidence, or the whole surrounding circumstances are highly improbable and believable in the case set up by the victim, the Court shall not act on the solitary evidence of the prosecutrix. **(See: *Birka Shiva v The State of Telangana* decided on 16-7-2025 in SLP (Cr.) No.1445 of 2025).**
20. In view of these material contradictions, unexplained delay in lodging the FIR, absence of medical or ocular corroboration, and the complete lack of proof of any threat or force exerted upon the victim, this Court is of the considered view that the prosecution has not proved its case beyond reasonable doubt. The appellant is entitled to the benefit of doubt.

21. The Supreme Court has consistently held that a consensual relationship between adults, even if based on a promise to marry which later fails, does not amount to rape unless the promise was false from the very beginning and made solely to obtain sexual consent. Nothing on record in the present case establishes that the appellant entertained any dishonest intention from the inception. The prosecution has failed to prove the essential ingredients required for conviction under Sections 376 or 417 IPC.

22. From the evidence adduced by the prosecution, particularly the statement of the victim who has categorically stated that the appellant has done sexual intercourse with her on the pretext of marriage and whenever the appellant has done the sexual intercourse she has not raised any objection and also did not make any noise to escape from the hands of the appellant on the count that the appellant will marry with her. She has also stated that she knew the accused. The evidence of the victim would clearly demonstrate that there was consensual sexual inter course. Since the victim was not below the age 16 years and the evidence brought on record would demonstrate that she is a consenting party, therefore, on the pretext of marriage, sexual intercourse committed by the appellant will fall within the ambit of rape or not, has been examined by the Hon'ble Supreme Court in the case ***Maheshwar Tigga v State of Jharkhand, (2020)10 SCC 108*** wherein the Supreme Court has held paragraph 17,18, 19 and 20 which is as under:-

17. This court recently in ***Dhruvaram Murlidhar Sonar vs. The State of Maharashtra and Others***, AIR 2019 SC 327 and in ***Pramod Suryabhan Pawar vs. State of Maharashtra and another***, (2019) 9 SCC 608 arising out of an application under Section 482 Cr.P.C. in similar circumstances where the relationship originated in a love affair, developed over a period of time accompanied by physical relations, consensual in nature, but the marriage could not fructify because the parties belonged to different castes and communities, quashed the proceedings.

18. We have given our thoughtful consideration to the facts and circumstances of the present case and are of the considered opinion that the appellant did not make any false promise or intentional misrepresentation of marriage leading to establishment of physical relationship between the parties. The prosecutrix was herself aware of the obstacles in their relationship because of different religious beliefs. An engagement ceremony was also held in the solemn belief that the societal obstacles would be overcome, but unfortunately differences also arose whether the marriage was to solemnised in the Church or in a Temple and ultimately failed. It is not possible to hold on the evidence available that the appellant right from the inception did not intend to marry the prosecutrix ever and had fraudulently misrepresented only in order to establish physical relation with her. The prosecutrix in her letters acknowledged that the appellant's family was always very nice to her.

19. The appellant has been acquitted of the charge under Section 420 and 504 IPC. No appeal has been preferred against the acquittal. There is no medical evidence on record to sustain the conviction under Section 323 I.P.C.

No offence is made out against the appellant under Section 341 I.P.C. considering the statement of prosecutrix that she had gone to live with the appellant for 15 days of her own volition.

20. We have no hesitation in concluding that the consent of the prosecutrix was but a conscious and deliberated choice, as distinct from an involuntary action or denial and which opportunity was available to her, because of her deep-seated love for the appellant leading her to willingly permit him liberties with her body, which according to normal human behaviour are permitted only to a person with whom one is deeply in love. The observations in this regard in Uday (supra) are considered relevant:

"25...It usually happens in such cases, when two young persons are madly in love, that they promise to each other several times that come what may, they will get married. As stated by the prosecutrix the appellant also made such a promise on more than one occasion. In such circumstances the promise loses all significance, particularly when they are overcome with emotions and passion and find themselves in situations and circumstances where they, in a weak moment, succumb to the temptation of having sexual relationship. This is what appears to have happened in this case as well, and the prosecutrix willingly consented to having sexual intercourse with the appellant with whom she was deeply in love, not because he promised to desired to marry her, but because she also it. circumstances it would be very these difficult to impute to the appellant knowledge that the prosecutrix had consented in consequence of a misconception of fact arising from his promise. In any event, it was not possible for the appellant to know what was in the mind of the prosecutrix when she consented, because there were more reasons

than one for her to consent."

23. Recently, the Supreme Court in the matter of ***Mahesh Damu Khare v. State of Maharashtra & Anr. (2024) 11 SCC 398***, held thus at para 34:

"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."

24. The Supreme Court in the matter of ***Deepak Gualti v. State of Haryana, (2013) 7 SCC 675*** has held as under at paras 21, 26 & 27:-

"21. Consent may be express or implied, coerced or misguided, obtained willingly or through deceit. Consent is an act of reason, accompanied by deliberation, the mind weighing, as in a balance, the good and evil on each side. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives, and had made a false promise to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception. There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the

accused; and whether the consent involved was given after wholly, understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused, and not solely on account of misrepresentation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently. An accused can be convicted for rape only if the court reaches a conclusion that the intention of the accused was mala fide, and that he had clandestine motives.

XXX XXX XXX XXX XXX

26. *To conclude, the prosecutrix had left her home voluntarily, of her own free will to get married to the appellant. She was 19 years of age at the relevant time and was, hence, capable of understanding the complications and issues surrounding her marriage to the appellant. According to the version of events provided by her, the prosecutrix had called the appellant on a number given to her by him, to ask him why he had not met her at the place that had been pre-decided by them. She also waited for him for a long time, and when he finally arrived she went with him to the Karna lake where they indulged in sexual intercourse. She did not raise any objection at this stage and made no complaints to any one. Thereafter, she also went to Kurukshetra with the appellant, where she lived with his relatives. Here to, the*

prosecutrix voluntarily became intimate with the appellant. She then, for some reason, went to live in the hostel at Kurukshetra University illegally, and once again came into contact with the appellant at the Birla Mandir. Thereafter, she even proceeded with the appellant to the old bus-stand in Kurukshetra, to leave for Ambala so that the two of them could get married in court at Ambala. However, here they were apprehended by the police.

27. If the prosecutrix was in fact going to Ambala to marry the appellant, as stands fully established from the evidence on record, we fail to understand on what basis the allegation of "false promise of marriage" has been raised by the prosecutrix. We also fail to comprehend the circumstances in which a charge of deceit/rape can be leveled against the appellant, in light of the afore-mentioned fact situation."

25. In light of evidence brought on record and on above stated legal position, it is quite clear that on the pretext of marriage sexual intercourse is not a rape, therefore, appellant deserves to be acquitted of the charges framed under Section 376 (2)(n) IPC.

26. Upon careful consideration of the evidence on record, particularly the deposition and cross-examination of the victim (PW-10), this Court finds that the victim was a major at the relevant time and had been in a long-standing relationship with the appellant since 2014. Her own admissions reveal that the parties were in regular contact, met voluntarily, travelled together, and maintained a

relationship over several years. She has further admitted that she was aware of the nature and consequences of such a relationship.

27. The material on record indicates that the relationship between the parties developed gradually and was accompanied by continued interaction and mutual association. The victim did not raise any complaint at the initial stage of the alleged physical relations in 2015, nor is there any contemporaneous evidence or medical corroboration supporting allegations of force. The delay in lodging the FIR, coupled with material inconsistencies in her statements, creates doubt regarding the prosecution's version.

28. In light of the settled legal position, a consensual relationship between adults does not amount to rape unless it is established that the consent was obtained on the basis of a false promise of marriage made with no intention of being fulfilled from the very inception. In the present case, the evidence does not establish that the appellant had any such fraudulent or dishonest intention at the inception of the relationship. Rather, the circumstances indicate a relationship arising out of mutual affection which subsequently did not culminate in marriage. Further, there is no material to demonstrate that the appellant engaged in the relationship with the prosecutrix on account of her caste or with the intention of committing an offence under the Atrocities Act. Mere knowledge of the prosecutrix's caste, in the absence of any

evidence of intentional exploitation on that basis, is insufficient to attract the provisions of Section 3(2)(v) of the said Act.

29. In view of the foregoing analysis, this Court is of the considered opinion that the prosecution has failed to establish, beyond reasonable doubt, that the appellant committed forcible sexual intercourse with the victim or induced her into sexual relations on the basis of a false promise of marriage made with dishonest intent from the very inception, or that such acts were committed on account of her belonging to the Satnami caste.

30. Consequently, the conviction of the appellant under Sections 376 (2)(n) of the IPC and Section 3(2)(v) of the Atrocities Act cannot be sustained and is liable to be set aside.

31. For the foregoing reasons, this criminal appeal is **allowed** and the conviction and sentence of the appellant under Section 376 (2)(n) of the IPC and Section 3(2)(v) of the Atrocities Act are hereby set aside. The appellant is acquitted of the said charges levelled against him. The appellant is reported to be in jail. He be set at liberty at once if not required in any other case.

32. In view of above, I.A.No.02/2026 for urgent hearing and I.A.No.03/2026 for grant of temporary bail stand disposed of.

33. Keeping in view of the provisions of Section 437-A CrPC (Now Section 481 of the Bhartiya Nagrik Suraksha Sanhita, 2023), the appellant is directed to furnish a personal bonds in terms of from

No.45 prescribed in the Code of Criminal Procedure of sum of Rs.25000/- with 2 reliable sureties 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.

- 34.** The Trial court record along with a copy of this judgment be sent back immediately to the trial court concerned for compliance and necessary action.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice