



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous (Petition) No. 4952/2020

Radhakrishan Meena S/o Shri Heeralal Meena, Aged About 27 Years, R/o Village And Post Nathalwada, Tehsil Rajgarh Distt. Alwar Raj. Presently R/o Custom House Pipavav Distt. Amreli Gujarat.

----Petitioner

Versus

1. State Of Rajasthan, Through P.p.
2. Smt. Manisha Meena D/o Shri Ramdhan Meena, Aged About 24 Years, R/o Nagal Dharmu Rajgarh Alwar Raj. Presently Residing At Jail Guard, Rajgarh Alwar Raj.

----Respondents

Connected With

S.B. Criminal Miscellaneous (Petition) No. 5612/2020

1. Dineshchand Meena S/o Shri Ramdhan Meena, Aged About 30 Years, R/o Village And Post Nathalwada, Tehsil Rajgarh Distt. Alwar Raj.
2. Kamlesh Kumar S/o Shri Heeralal Meena, Aged About 42 Years, R/o Village And Post Nathalwada, Tehsil Rajgarh Distt. Alwar Raj.
3. Lekhraj S/o Shri Kailashchan Meena, Aged About 26 Years, R/o Village Dubi, Police Station Rajgarh Distt. Alwar.
4. Radhakrishan @ Rajya S/o Shri Jagannath Meena, Aged About 23 Years, R/o Village And Post Nathalwada, Tehsil Rajgarh Distt. Alwar Raj.
5. Smt. Budi Devi W/o Shri Kamlesh Kumar, Aged About 40 Years, R/o Village And Post Nathalwada Tehsil Rajgarh Distt. Alwar Raj.

----Petitioners

Versus

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2. Smt. Manisha Meena D/o Shri Ramdhan Meena, Aged About 24 Years, R/o Nagal Dharmu Rajgarh Alwar Raj. Presently Residing At Jail Guard, Rajgarh Alwar Raj.

----Respondents



For Petitioner(s)	:	Mr.Mohit Balwada with Mr.Ms.Asha Sharma & Ms.Gayatri
For Respondent(s)	:	Mr.Anshuman Saxena Mr.Ramesh Chaudhary, PP

HON'BLE MR. JUSTICE FARJAND ALI

REPORTABLE

Judgment / Order

DATE OF RESERVED ON : 04/01/2022

DATE OF PRONOUNCEMENT : 23/02/2022

BY THE COURT:

The instant criminal misc. petitions have been preferred by the accused petitioners seeking quashing of FIR No. 36/2020 registered at P.S. Mahila Thana, Distt. Alwar for the offences under Sections 376-D, 418 and 506 IPC.

Bereft of elaborate details, the brief facts necessary for the disposal of these petitions are that at the behest of the complainant-respondent no.2, on 2.2.2020 the aforementioned FIR came to be lodged alleging inter alia that the prosecutrix is a jail guard deployed at Central Jail, Bikaner. In the year 2018, she was residing in a rented premises at Jaipur for the purpose of coaching for exams. One Dinesh Meena introduced her to the petitioner. One Siya Ram Meena, resident of village Nathalwada, who happens to be the relative of the complainant was also a tenant at the same premises. It is stated that said Dinesh Meena frequently used to visit the house where she and Siya Ram were residing and a good relationship had gradually developed between them. Dinesh Meena had taken her mobile number and often used to call on her mobile number. It is alleged in the FIR that Dinesh



Meena told the prosecutrix that a boy named Radha Kishan Meena (the present petitioner) is serving in the Department of Customs at Gujarat and would be a suitable groom for her. The prosecutrix narrated all the things to her brother and other relatives. It is specifically mentioned in the FIR that brothers of the prosecutrix had bluntly refused to get the prosecutrix married with the present petitioner, rather the middleman Dinesh Meena was also sensitized not to make call to her in this regard. It is also alleged in the FIR that thereafter the accused petitioner frequently used to call her and she was coaxed to marry with him, for which ultimately the prosecutrix had consented. It is alleged that on 18.4.2018, she was called by the petitioner to meet with him, upon which she left her house and went outside the village, where the petitioner met her and she sat as a pillion rider on the motor cycle driven by the petitioner. It is alleged that she wanted to go to Jodhpur for physical examination related to recruitment process and for that purpose she asked the petitioner to drop her at Rajgarh Railway Station, but the accused did not stop the bike and took her away to Malviya Nagar, Alwar at the residence of a relative of accused petitioner. As per allegations, the prosecutrix was induced by the accused to develop physical relations and she surrendered herself before him on account of promise to marry her. The act of establishing the physical relationship, is alleged to have been done on 19.4.2018 at Malviya Nagar, Alwar at the residence of one Lekh Raj. After the incident, the prosecutrix was taken through a Motor Cycle to Bandikui Station, wherefrom she boarded to Jodhpur for the purpose of her physical examination on the post of Jail Constable. It is further alleged that after that incident, on several occasions, she was made to establish physical



relation with the petitioner on account of the promise that the accused would marry her. Another incident, as shown in the FIR, is that when she was studying at Jaipur, on 18.6.2018, the accused came to her rented house and developed physical relationship with her. It is alleged that though she was not willing to surrender of her own accord but consented to it owing to the promise made by

the petitioner that he would marry her, and that is why she submitted herself before the accused. It is further alleged that thereafter on several occasions, sexual inter-course was committed upon her at different places and lastly when she made a protest, she was threatened that an obscene video has been made with the petitioner in a compromising situation and if any report is moved, he will make the video viral in order to disrepute her in the society. After this incident, she has been continuously subjected to intercourse on account of threat of dire consequences. It is alleged in the FIR that family members of the prosecutrix have also complained to the brother of the petitioner to convince the petitioner to marry with prosecutrix, but to no avail as the accused did not agree to marry with her. It is alleged that she was seduced by the petitioner on the false pretext that he will marry her.

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On the basis of the said report, the afore-mentioned FIR got registered and investigation in the matter is underway.

Learned counsel for the petitioner submits that the allegations leveled in the FIR regarding ravishing hereby the petitioner are patently false and absurd and the same are leveled only to harass them. It is submitted that even the Investigating



Agency has sent a letter to the office of the Deputy Commissioner of Customs, Porbandar asking for providing information regarding the attendance of the petitioner for the month of April and June, 2018 wherein the Department of Customs replied to the Agency that the accused petitioner did not take any leave in the month of April & June, 2018, the copies of which are annexed with the petition. According to the counsel for the petitioner, allegations regarding the particular date of committing the offence, have been belied and negated in the light of the letter of the Department of Customs.

Learned counsel for the petitioner submits that there are major discrepancies and contradictions in the complaint filed by the complainant on 17.12.2019 addressed to the Women Commission, Jaipur and the FIR as lodged on 2.2.2020. The allegations in the FIR have been exaggerated and modified to a great extent. Learned counsel drew attention of this court towards the messages exchanged in between the petitioner and the complainant on WhatsApp platform and submitted that a bare perusal of the same would fortify the plea of the petitioner that a false case has been foisted upon him and attention was also drawn on several messages where the complainant gave warning and threats to the petitioner, if the accused did not agree to marry her. At one point, she even threatened to commit suicide if the accused would not marry her. The inordinate delay in lodging the FIR has also been questioned. It is submitted that no reasonable explanation has been furnished as to why the complainant had kept mum for a long time even after the cause of action had arisen for reporting the case. As per his submissions, the cause of



action had arisen for the complainant to lodge the FIR after the incident of 18.6.2018 and thereafter in the year 2019 when she was bluntly refused for the marriage, still the report came to be lodged on 2.2.2020.

Learned counsel for the petitioner further submitted that

even if the allegations as leveled in the FIR are taken on their face value or in their entirety, no case of rape as defined under Section 375 and 376 IPC is made out since the complainant is a grown up lady, aged of 24 years and a literate one, who is serving as a constable and knows her good and bad pretty well. If as per allegations, she submitted herself before the accused petitioner, then it could be presumed that it was a consensual sexual relationship between two major persons and the same would not fall under the penal provisions of Section 376 IPC. Thus, he prayed for quashing of the FIR and all consequential proceedings pending against the petitioner.

Learned counsel for the complainant, and learned Public Prosecutor for the State have submitted that there are no grounds for quashing of FIR. From the bare perusal of FIR, commission of cognizable offence is disclosed which requires investigation. It is submitted that at the stage of quashing of FIR, the appreciation of evidence is not required to be made nor the High Court is supposed to make an enquiry to ascertain the reliability or genuineness of the case as alleged in the FIR. It is submitted that it is a clear case of seducement on account of false promise to marry with the young girl, therefore, jointly prayed for dismissal of the petitions.



Heard learned counsel for the parties and gone through the entire material available on record.

A perusal of the record shows that there is not an iota of evidence to show or suggest that right from the inception, the intent of accused petitioner was to deceive the woman to convince her to engage in sexual relationship. There are no allegations in the FIR that at what point of time, the petitioner made a false promise to marry the complainant or whether it was done in bad faith or only with an intention to deceive her. The failure of the accused in the year 2020 to fulfill his promise made by him to prosecutrix in the year 2018 cannot be construed to mean that the promise itself was false. The allegations in the FIR indicate that the prosecutrix continued to engage in sexual relationship with the petitioner for a long period of two years and several occasions have been reported when she was made to establish physical relationship. Why did the complainant allow the accused to have inter-course with her on different dates, at different places and even at different intervals? It can be manifested from the bare perusal of the FIR that the complainant used to live alone at different places. The accused is not the resident of the same place, rather he was serving in the Department of Customs at Porbandar, Gujarat. There is no material on the basis of which it could be assumed that she was deceived by the accused on account of false promise of marriage. Therefore, even if the facts as set out in the report, as also in her statements, are taken in their entirety, no offence under Section 375 IPC is made out. The messages exchanged between the parties also suggest that



atleast no offence, as alleged, can be brought under the ambit of Section 375 of IPC. The excuses taken regarding consent given under misconception are *prima facie* appears to be flimsy and unconvincing. As per her own contention, she was supposed to reach Jodhpur to appear in physical exams, instead thereof she went with the petitioner at Alwar in a very clandestine manner; stayed few hours with the accused at Alwar and thereafter proceeded to Jodhpur. As per her allegations, the act of seducement was done at Alwar, Jaipur, Jodhpur and other places.

Web Copy . Not Official सत्यमेव जयते The information provided by the Department of Customs also shows that at the relevant point of time, when the offence was allegedly committed, the petitioner was not on leave.

Indisputably there is a major discrepancy and conflict between the report submitted by the prosecutrix to the Women Commission at Jaipur and the impugned FIR which got lodged after few days of moving the complaint to the Commission. The major alteration & embellishment made in the FIR impugned also casts a serious doubt over the genuineness of allegations.

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A perusal of a number of WhatsApp messages exchanged between the parties completely negates the story as set out in the FIR impugned.

It is revealed from the FIR that the accused had refused to marry with the petitioner; but it is not mentioned at what point of time. However, it reflects that somewhere in the year 2018, the cause of action had arisen to the prosecutrix to sue the petitioner



but no action was taken by her; rather, on the contrary, even thereafter she continued her relations with the petitioner. No video clip or other material has been collected or produced by which inference of threat can be drawn. Keeping mum for long in reporting the matter also creates serious doubts in the story. It is not disputed that the family members of the complainant did not agree to solemnize her marriage with the petitioner.

This is an unfortunate but routine case of a boy and a girl having an affair, indulging into a sexual relationship and ultimately ending into a breakup. Present is one of such cases where the parties had consensual sexual relationship and were in love with each other, however, the relationship become sour by the lapse of time.

In every case of rape, the act of sexual intercourse must be forcible and without consent of the woman/lady. However, the consent obtained by fraud amounts to no consent and therefore, if the intercourse is done with consent but obtained by fraud, it would amount to rape. If an illiterate woman is given promise to marry and under that promise, her consent is obtained for sexual intercourse, then, it can be said that the consent is obtained by fraud. Here, in this case, the prosecutrix is an educated lady and serving as a lady jail guard. Another instance would be that if consent is obtained by hiding the identity or impersonation, then it is a fraud. If a married man obtains consent of an unmarried girl under the false pretext that he will marry her by concealing the fact of his previous marriage, then the consent given by the young girl shall be construed to be a consent obtained fraudulently and



thus it is no consent. Here, in this matter, both the parties are not previously married.

This court is of the considered view that when a woman is married and educated, then, depending on facts of each case, she is supposed to be well aware of the consequences of having sexual

intercourse with a man prior to solemnizing of the marriage. In the event of a consent obtained by fraud, inducement is a necessary ingredient. There must be some material on record to hold *prima facie* that the girl was induced by the accused to such an extent that she was in agreement to have sexual intercourse with him.

There are allegations in the FIR of repeatedly committing an offence of rape, the punishment provisions for which are very stringent and not less than 10 years. Thus, on one hand, there is question of the life and liberty of the accused in view of gravity of the punishment and on the other hand, the mental trauma and physical sufferings of the girl. Both are required to be appropriately considered with a balanced view.

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In the case of **Mahesh Balkrishna Dandane Vs. State of Maharashtra, 2014 (4) Crimes 37 (Bom.)**, decided on 12.3.2014, the Bombay High Court while dealing with a case of identical nature, observed as under:

" that to satisfy the sexual urge is a free decision of every major individual irrespective of gender. Thus, promise to marry in any manner, cannot be a condition precedent to have sex. However, the behavioral pattern and psyche of Indian society has to be taken into



account while dealing with this issue. Since many generations, virginity of a woman is considered precious and there is a moral taboo that it is a responsibility of a woman to be a virgin at the time of marriage. However, today, the young generation is exposed to different interactions with each other and is well informed about sexual activities; similarly, the late marriages and economic independence are also relevant factors. The society is trying to be liberated but carries baggage of different notions of morality wherein sex before marriage is a matter of censure and hence, it is a hush-hush subject. In fact, it is an issue before the social thinkers to educate and guide the society. Under such circumstances, a young woman who is in love with a boy forgets that to have sex is her option like her counterpart but somehow refuses to take the responsibility of her decision. If at all she has indulged into sexual activities even on a promise to marry, the girl may land up emotionally and physically in a pathetic situation after break up. To marry someone is a matter of choice. It cannot be imposed on anybody. Only because two individuals are sexually involved with each other, it is not compulsory for them to marry. Initially, a boy and a girl genuinely may want to marry and are true to their emotions and establish sexual relationship, however, after some time, they may find that they are not mentally or physically compatible and one decides to withdraw from the relationship. Under such circumstances, nobody can compel these two persons to marry only because they had sexual relationship. It is necessary to have a healthy, objective and legal approach towards these incidents. There may be moral bonding between the two persons when they indulge into sexual activities with promise to marry and it is also a fact that ultimately women only can remain pregnant and therefore, she suffers more than the man. However, in law, this cannot be labelled in any manner as a rape.

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The Hon'ble Apex Court in the case of **Pramod Suryabhan**

Pawar Vs. State of Maharashtra and Anr. reported in **(2019)**

3 SCC (Cri.) 903, has observed as under:

14. In the present case, the "misconception of fact" alleged by the complainant is the Appellant's promise to marry her. Specifically in the context of a promise to marry, this Court has observed that there is a distinction between a false promise given on the understanding by



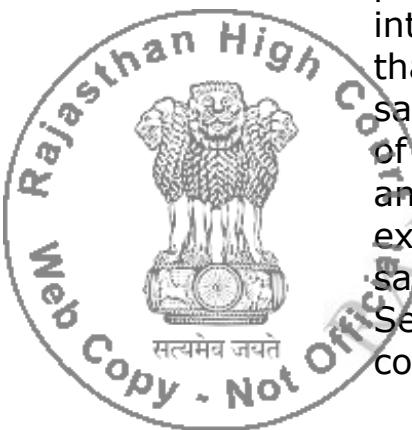
the maker that it will be broken, and the breach of a promise which is made in good faith but subsequently not fulfilled. In *Anurag Soni v. State of Chhattisgarh*, this Court held: (SCC para 12)

"12. The sum and substance of the aforesaid decisions would be that if it is established and proved that from the inception the Accused who gave the promise to the prosecutrix to marry, did not have any intention to marry and the prosecutrix gave the consent for sexual intercourse on such an assurance by the Accused that he would marry her, such a consent can be said to be a consent obtained on a misconception of fact as per Section 90 of the Indian Penal Code and, in such a case, such a consent would not excuse the offender and such an offender can be said to have committed the rape as defined Under Sections 375 of the Indian Penal Code and can be convicted for the offence Under Section 376 IPC."

Similar observations were made by this Court in *Deepak Gulati v. State of Haryana* ("Deepak Gulati"): (SCC p.682, para 21)

"21. ... There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether that was made, at an early stage a false promise of marriage by the Accused....

16. 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. The "consent" of a woman Under Section 375 is vitiated on the ground of a "misconception of fact" where such misconception was the basis for her choosing to engage in the said act. In *Deepak Gulati* this Court observed: (SCC pp.682-84, paras 21 & 24)

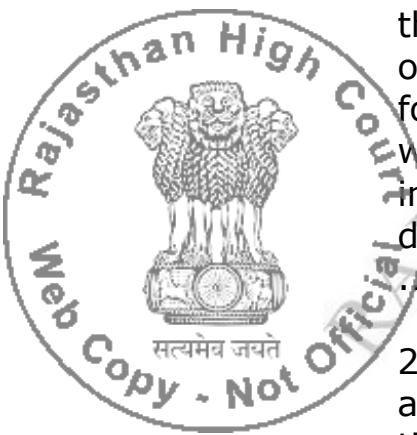




21. ... There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the Accused; and whether the consent involved was given after wholly understanding the nature 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.

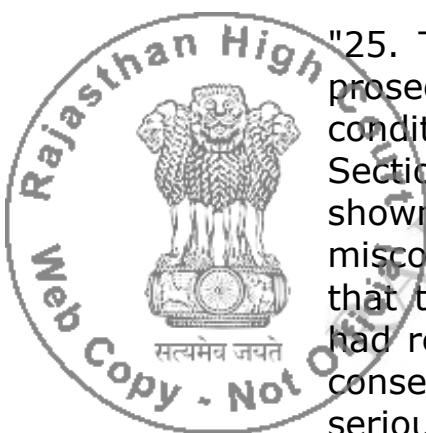
24. Hence, it is evident that there must be adequate evidence to show that at the relevant time i.e. at the initial stage itself, the Accused had no intention whatsoever, of keeping his promise to marry the victim. There may, of course, be circumstances, when a person having the best of intentions is unable to marry the victim owing to various unavoidable circumstances. The "failure to keep a promise made with respect to a future uncertain date, due to reasons that are not very clear from the evidence available, does not always amount to misconception of fact. In order to come within the meaning of the term "misconception of fact", the fact must have an immediate relevance". Section 90 Indian Penal Code cannot be called into aid in such a situation, to pardon the act of a girl in entirety, and fasten criminal liability on the other, unless the court is assured of the fact that from the very beginning, the Accused had never really intended to marry her.

17. In *Uday v. State of Karnataka* (2003) 4 SCC 46 the complainant was a college going student when the Accused promised to marry her. In the complainant's statement, she admitted that she was aware that there would be significant opposition from both the complainant's and Accused's families to the proposed marriage. She engaged in sexual intercourse with the





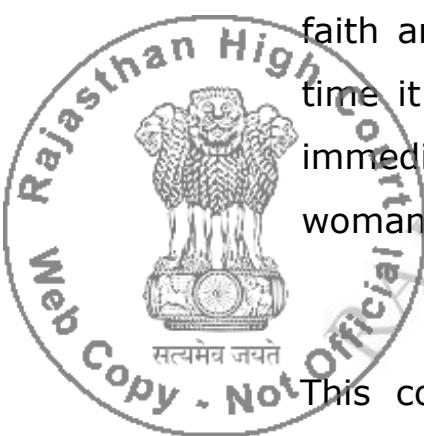
Accused but nonetheless kept the relationship secret from her family. The court observed that in these circumstances the Accused's promise to marry the complainant was not of immediate relevance to the complainant's decision to engage in sexual intercourse with the Accused, which was motivated by other factors: (SCC p.58, para 25)



"25. There is yet another difficulty which faces the prosecution in this case. In a case of this nature two conditions must be fulfilled for the application of Section 90 Indian Penal Code. Firstly, it must be shown that the consent was given under a misconception of fact. Secondly, it must be proved that the person who obtained the consent knew, or had reason to believe that the consent was given in consequence of such misconception. We have serious doubts that the promise to marry induced the prosecutrix to consent to having sexual intercourse with the Appellant. She knew, as we have observed earlier, that her marriage with the Appellant was difficult on account of caste considerations. The proposal was bound to meet with stiff opposition from members of both families. There was therefore a distinct possibility, of which she was clearly conscious, that the marriage may not take place at all despite the promise of the Appellant. The question still remains whether even if it were so, the Appellant knew, or had reason to believe, that the prosecutrix had consented to having sexual intercourse with him only as a consequence of her belief, based on his promise, that they will get married in due course. There is hardly any evidence to prove this fact. On the contrary, the circumstances of the case tend to support the conclusion that the Appellant had reason to believe that the consent given by the prosecutrix was the result of their deep love for each other. It is not disputed that they were deeply in love. They met often, and it does appear that the prosecutrix permitted him liberties which, if at all, are permitted only to a person with whom one is in deep love. It is also not without significance that the prosecutrix stealthily went out with the Appellant to a lonely place at 12 o'clock in the night. 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...



18. To summarise the legal position that emerges from the above cases, the "consent" of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the "consent" was vitiated by a "misconception of fact" arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman's decision to engage in the sexual act."



This court is aptly guided by the observations made by Hon'ble the Supreme Court in the case of **Pramod Suryabhan Pawar** (supra). Every criminal case has a feature, fact and circumstance which is distinct from another case. After minutely examining the facts, as narrated in the FIR, this court is of the firm view that there is not an iota of evidence or whisper regarding the fact that right from the inception, the accused was having a dishonest intention; rather in juxtaposition, the facts reveal that there was a consensual sexual relationship between the parties and thus, no offence as alleged in the FIR is made out for which the petitioner can be forced to face the rigor of a trial.

In the considered view of this court, a breach of 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 words at the time of giving it. The consent of a woman under Section 375 of IPC can be held vitiated only on the ground of misconception of fact where such misconception was the



basis of her surrender for establishing physical relationship. Likewise, *prima facie* there is no evidence to substantiate the allegations regarding the offence under Sections 418 and 506 IPC in view of observations made herein above.

The Hon'ble Apex court has dealt with the proposition of law

pertaining to quashing of FIR/complaint/all criminal proceedings initiated against an accused by High Court under Section 482 Cr.P.C. in *catena* of judgments. Particularly, in the case of

Prashant Bharti v. State of NCT of Delhi, reported in **AIR 2013 SC 2753**, Hon'ble the Supreme Court has held as under:

23. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Code of Criminal Procedure:

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?

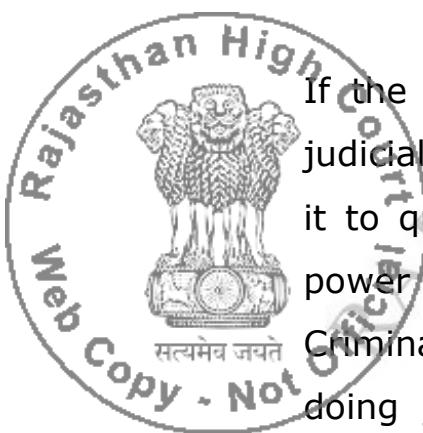
(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by



the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?



If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal-proceedings, in exercise of power vested in it under Section 482 of the Code of Criminal Procedure. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused.

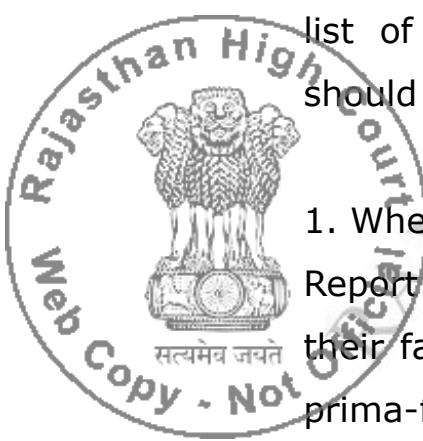
In the landmark decision of **State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors. [1992 Supp (1) SCC 335]**, the Apex

court has discussed the scope of powers of High Court to quash FIR/complaint/all criminal proceedings under Section 482 Cr.P.C. in detail and has determined such instances where FIR/complaint/all criminal proceedings can be quashed. The relevant part of the above-mentioned judgment reads as under:

105. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which



we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formula and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.



1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.
5. Where the allegations made in the FIR or complaint



are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

In view of over all discussions and observations made herein above and guided by the principles laid down in *Prashant Bharti v. State of NCT of Delhi (supra)* and *State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors. (supra)*, I am of this firm view that the present is a fit case which falls within the parameters laid down by Hon'ble the Supreme Court. Therefore, this court deems it appropriate to allow the criminal misc. petitions and to quash the proceedings that arose out of the FIR impugned.

Accordingly, the criminal misc. petitions are allowed. The FIR No. 36/2020 registered at P.S. Mahila Thana, Distt. Alwar for the offences under Sections 376-D, 418 and 506 of IPC, and all consequential proceedings undertaken in pursuance thereof, are

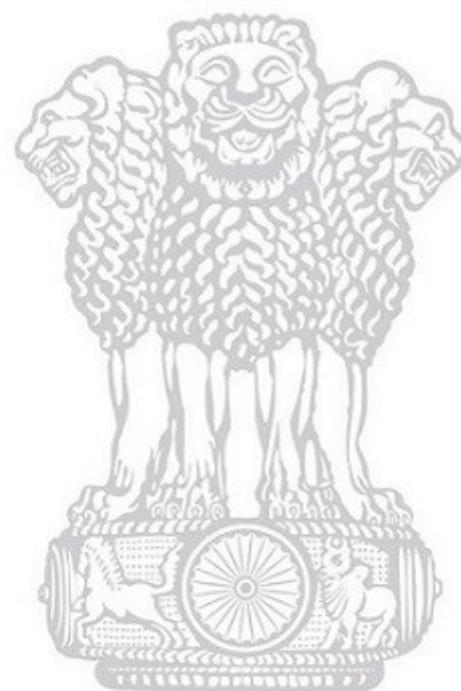


hereby quashed and set aside. The concerned SHO is directed to prepare a closure report of the case and to submit the same before the learned Magistrate concerned within a period of one month from the date of receipt of this order.

(FARJAND ALI),J



SANDEEP RAWAT /34-35



सत्यमेव जयते