

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.08.2025

DELIVERED ON : 12.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Crl.OP(MD)No.12300 of 2025

and

Crl.MP(MD)Nos.9539, 9542 of 2025

Saravanan . C

: Petitioner

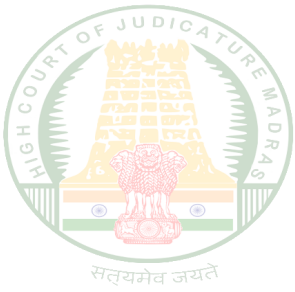
Vs.

1.State of Tamil Nadu, Rep. by
The Inspector of Police,
Dindigul AWPS Rural,
Dindigul District.
Cr.No.9/2025

2.Pothumponnu

: Respondents

PRAYER: Petition filed under Section 528 BNSS to call for the records pertaining to PRC.No.75 of 2025 on the file of the Judicial Magistrate No.III, Dindigul and quash the same.



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Crl.OP(MD)No.12300 of 2025

For Petitioner : Mr.P.Sathish Kumar

For Respondents: Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl. Side)
for R.1

Ms.S.Prabha for R.2

ORDER

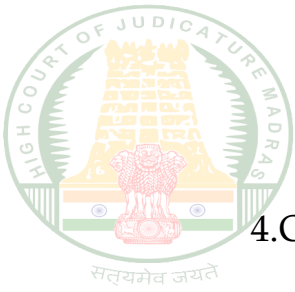
This Criminal Original Petition has been filed by the petitioner seeking to quash the proceedings in PRC.No.75 of 2025 pending on the file of the learned Judicial Magistrate No. III, Dindigul.

2.The petitioner is the sole accused in the said proceedings for the offences punishable under Sections 69 and 351(2) of the Bharatiya Nyaya Sanhita, 2023. The prosecution case is that the *defacto* complainant, an Advocate enrolled in 2018 with the Bar Council of Tamil Nadu and Puducherry, was acquainted with the petitioner during her college days at the Government Law College, Madurai, while the petitioner was studying at the Madurai Kamaraj University. They developed a relationship, and on



11.03.2020, the petitioner is said to have invited her to a motor shed near his village, where he allegedly had sexual intercourse with her against her will, on the pretext that he was going to marry her. Thereafter, they are stated to have had sexual intercourse on several occasions. When the *defacto* complainant later enquired about marriage, the petitioner refused and, on 25.01.2025, allegedly threatened her, citing caste differences. Hence, the complaint.

3.Learned Counsel for the petitioner submitted that the relationship between the parties was entirely consensual and mutual. The complaint has been lodged out of personal animosity after the relationship soured. It is further submitted that there was no deceitful intention at the inception of the relationship and that the petitioner cannot be fastened with criminal liability merely because their relationship got strained. The *defacto* complainant, being a law graduate and a practising Advocate, was fully aware of the implications of their conduct and cannot now claim to have been deceived.

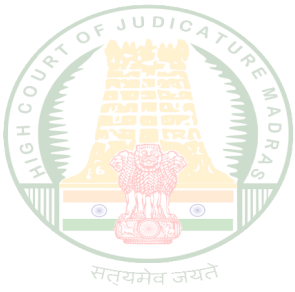


4. On the other hand, learned Government Advocate appearing for the first respondent and the learned Counsel for the second respondent / *defacto* complainant submitted that the petitioner induced the complainant into a physical relationship by making a false promise to marry her and subsequently refused to do so, thereby attracting the ingredients of Section 69 of the BNS.

5. This Court considered the rival submissions made on either side and perused the materials placed on record.

6. The case has been registered for the offence u/s.69, 351(2) BNS. Section 69 of the BNS reads as follows:-

"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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7.The essential ingredient of this offence is that the accused must have had sexual intercourse by deceitful means or by making a promise to marry without any intention of fulfilling the same.

8.In *Deepak Gulati v. State of Haryana* [(2013) 7 SCC 675], the Hon'ble Supreme Court explained the distinction between a mere breach of promise and a false promise made with mala fide intent from the inception. Unless the intention to deceive existed at the very beginning, subsequent failure to marry would not attract criminal liability. The relevant portions are extracted as under:-

"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,



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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.

... ..

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 IPC 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."

9.In *Mahesh Damu Khare v. State of Maharashtra* [2024 INSC 897], the Hon'ble Supreme Court held that a prolonged continuation of a physical relationship dilutes the element of deceit, and the plea that consent was obtained under a misconception of fact becomes implausible when the relationship continued for several years without protest. The relevant portion is extracted as under:-

"28. Moreover, even if it is assumed that a false promise of marriage was made to the complainant initially by the appellant, even though no such cogent evidence has been brought on record before us to that effect, the fact that the relationship continued for nine long years, would render the plea of the complainant that her consent for all these years was under misconception of fact that the Appellant would marry her implausible. Consequently, the criminal liability attached to such false promise would be diluted after such a long passage of time and in light of the fact that no protest was registered by the complainant during all those years. Such a prolonged continuation of physical relationship



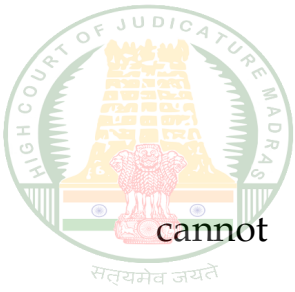
without demurral or remonstrance by the female partner, in effect takes out the sting of criminal culpability and neutralises it."

10. Similarly, in *Amol Bhagwan Nehul v. State of Maharashtra* [2025 INSC 782], the Hon'ble Supreme Court cautioned that every consensual relationship which later turns sour cannot be given a criminal colour, as such invocation of the criminal process would amount to an abuse of law.

The relevant portion is extracted as under:-

"9. In our considered view, this is also not a case where there was a false promise to marry to begin with. A consensual relationship turning sour or partners becoming distant cannot be a ground for invoking criminal machinery of the State. Such conduct not only burdens the Courts, but blots the identity of an individual accused of such a heinous offence. This Court has time and again warned against the misuse of the provisions, and has termed it a folly to treat each breach of promise to marry as a false promise and prosecute a person for an offence under section 376 IPC."

11. In *Biswajyoti Chatterjee v. State of West Bengal* [2025 INSC 458], it was reiterated by the Supreme Court that consensual relationships



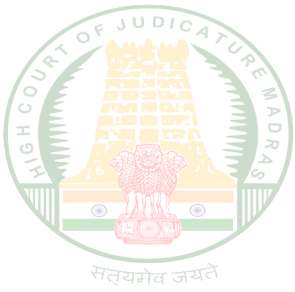
cannot be retrospectively branded as deceitful merely because of

subsequent differences, and that continuation of such prosecutions would

constitute misuse of criminal process. The relevant portion is as under:-

“20. We find that there is a growing tendency of resorting to initiation of criminal proceedings when relationships turn sour. Every consensual relationship, where a possibility of marriage may exist, cannot be given a colour of a false pretext to marry, in the event of a fall out. It is such as that amounts to an abuse of process of law, and it is under such circumstances, that we deem fit to terminate the proceedings at the stage of charge itself.”

12. Applying the above principles, this Court finds that the materials on record disclose that the relationship between the petitioner and the *defacto* complainant spanned several years from 2020 to 2025. The *defacto* complainant is a law graduate and a practising Advocate, well aware of the consequences. There is no material to suggest that the petitioner had a fraudulent or mala fide intent at the inception of the relationship. The allegations indicate, at best, a breakdown of a consensual relationship, which by itself cannot attract the penal provisions of Section 69 of the BNS.

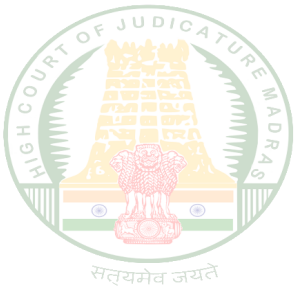


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13.As regards the allegation under Section 351(2) of the BNS, the Hon'ble Supreme Court in *Prashant v. State (NCT of Delhi)* [2024 INSC 879] held that criminal intimidation cannot be made out where the relationship between the parties was admittedly consensual and disputes arose only after the relationship ended. The relevant portion is extracted as under:-

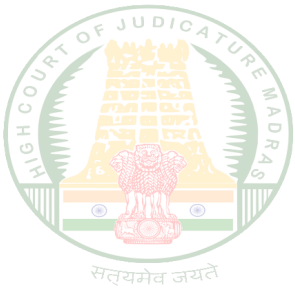
"20. The ingredients of criminal intimidation are threat to another person, inter alia, with any injury to his person, reputation with intent to cause alarm to that person or to cause that person to any act which he is not legally bound to do. In the instant case, as already noted, the relationship between the appellant and the complainant was consensual in nature. In fact, they wanted to fructify the relationship into marriage. It is in that context that they indulged in sexual activity. Therefore, there cannot be a case of criminal intimidation involved as against the complainant. We do not find that there was any threat caused to the complainant by the appellant when all along there was cordiality between them and it was only when the appellant got married in the year 2019 that the complainant filed a complaint."

The same reasoning applies here, as such, the offence under Section 351(2) of the BNS would not be attracted.



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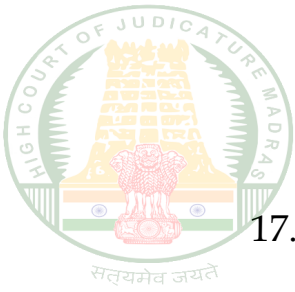
14. This Court is conscious of the prevailing social realities. It is a matter of fact that, in present times, instances of premarital intimacy between consenting adults are not uncommon. This Court makes this observation not to endorse or moralise such conduct, but to acknowledge the changing contours of personal relationships in contemporary society. The line between emotional attachment and physical relationship is often indistinct, and when such relationships end in discord, competing narratives frequently emerge about what transpired in private. What is transpiring between them is within the realm of personal choice. Whether the relationship was founded on affection, expectation of marriage, or mere mutual pleasure is known only to them. It is neither possible nor appropriate for a Court to conclusively determine such matters. The criminal process cannot be used to moralise private conduct or convert personal disappointment into litigation, as Courts deal with legality, not morality. The law intervenes only where consent is vitiated by coercion, deception, or incapacity.



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15. In the present case, both the petitioner and the *defacto* complainant are educated adults who consciously entered into a relationship of intimacy. What transpired between them was a matter of their personal choice. Having exercised that choice, it is not open to either to later portray private discord as criminal misconduct. The law is not an instrument for resolving emotional fallouts or for attributing moral blame arising from consensual acts between adults.

16. Of late, this Court has witnessed an increase in complaints of this nature, where relationships voluntarily entered into are subsequently projected as instances of deception or breach of promise. Such matters, rooted in personal association and mutual choice, do not ordinarily warrant criminal prosecution. The growing tendency to invoke the criminal process in private relationship disputes must be checked, for the criminal law cannot be permitted to become a means for settling personal or emotional disputes.



17.Considering the above discussion, the prolonged consensual nature of the relationship between the parties and the ratios referred to supra, this Court is of the view that continuation of the prosecution against the petitioner would amount to an abuse of the process of law.

In the result, this Criminal Original Petition is allowed. The proceedings in PRC.No.75 of 2025 pending on the file of the learned Judicial Magistrate No. III, Dindigul, are hereby quashed. Consequently, connected miscellaneous petitions, if any, shall stand closed.

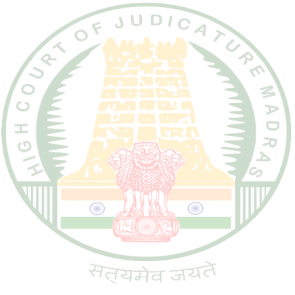
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12.11.2025

To

1.The Judicial Magistrate No.III,
Dindigul.

2.The Inspector of Police,
Dindigul AWPS Rural,
Dindigul District.



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B.PUGALENDHI, J.

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