

Arpit Naraniwal vs State Of Rajasthan on 3 June, 2025

Author: Kuldeep Mathur

Bench: Kuldeep Mathur

[2025:RJ-JD:25499]

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR
S.B. Criminal Misc(Pet.) No. 7935/2024

Arpit Naraniwal S/o Sampat Naraniwal, Aged About 28 Years, R/o
Jambhesver Nagar, Bhilwara, Dist. Bhilwara (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Aaditi D/o Vijay Misra, R/o 137, Laxmi Vihr, Baba Dham ,
Pratapnagar, Bhilwara (Raj.)

----Respondents

Connected With

S.B. Criminal Misc(Pet.) No. 7570/2024

Arpit Naraniwal S/o Sampat Naraniwal, Aged About 28 Years, R/o
18- Jambleshwar Nagar, Near Hotel Oasis, Bhilwara, Thana
Pratapnagar, Dist. Bhilwara,raj.

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Simaran Upadhyaya D/o Anil Upadhyaya, Aged About 26
Years, R/o G.b. 25, New Bapunagar, Bhilwara,raj.

----Respondents

S.B. Criminal Misc(Pet.) No. 2324/2025

1. Arpit Naraniwal S/o Sampat Naraniwal, Aged About 28
Years, R/o 18- Jambleshwar Nagar, Near Hotel Oasis,
Bhilwara, Thana Pratap Nagar, Dist. Bhilwara,raj.
2. Sampat Naraniwal S/o Banshi Lal Naraniwal, Aged About 58
Years, R/o 18- Jambleshwar Nagar, Near Hotel Oasis,
Bhilwara, Thana Pratap Nagar, Dist. Bhilwara,raj.

----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Simaran Upadhyaya D/o Anil Upadhyaya, Aged About 26
Years, R/o G.b. 25, New Bapunagar, Bhilwara,raj.

----Respondents

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[2025:RJ-JD:25499]

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[CRLMP-7935/2024, 7570/2024 &

For Petitioner(s)

Mr. Manish Shishodiya, Sr. Adv.
Mr. Deepesh Birla
Mr. Mr. Deepak Gurnani
Mr. Varun Arora
Mr. Farooq Ahmed
Mr. Ashok Kumar

For Respondent No.1

Mr. Narendra Singh, PP
Mr. Ravindra Singh Bhati, AGA

For Respondent No.2 Mst.A

Ms. Khushi Upadhyay

Respondent No.2 Mst.S present in person

HON'BLE MR. JUSTICE KULDEEP MATHUR

ORDER

03/06/2025 By this common order, challenge laid by the petitioners to three different FIRs under various sections of IPC, 1860 (BNS, 2023) are being decided together.

Brief facts giving rise to S.B. Criminal Misc. Petition No.7570/2024 read as under:

By way of filing the instant criminal misc. petition, a prayer has been made by the petitioner to quash and set aside the FIR No.0115/2024 dated 06.02.2024 registered at PS:- Pratap Nagar, Bhilwara, District:- Bhilwara at the instance of the respondent No.2- 'S'.

In the impugned FIR, it has been alleged that the petitioner met with the complainant- respondent No.2 about 06-07 years prior to the date of the lodging of the FIR and started following and pressurizing her to become his friend. When the respondent No.2 did not agree to the proposal of the petitioner's friendship, the petitioner in order to entrap the complainant, gave [2025:RJ-JD:25499] (3 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] her fictitious assurance of marriage and established physical relations with her in Landmark Hotel. As per the FIR, the petitioner thereafter, on multiple occasions made physical relations with the complainant on a false pretext of marriage. In the meantime, the complainant-respondent No.2 continued to request the petitioner to solemnize marriage with her as she developed and maintained consensual relationship purely because of alleged promise made by the petitioner to marry her.

In the FIR, it has been stated that the petitioner avoided the multiple requests so made by the complainant and therefore, in these compelling circumstances, the respondent No.2- 'S' decided to end her life by consuming heavy dosage of sleeping

pills. The complainant was admitted in the Hospital on 15.01.2024. The petitioner after the complainant was discharge from the Hospital, on 19.01.2024, took her to Sessions Court, Bhilwara and purchased one stamp paper in her name and got some material typed. The signatures of the complainant were also obtained by the petitioner on the aforesaid document without allowing her to go through the contents of the document. When the complainant requested the petitioner to hand over a copy of the said document, she came to know that the documents indicating live-in relations between the petitioner and the complainant have got prepared by the petitioner.

In these circumstances, the complainant- 'S' went to the house of the petitioner and met with the petitioner's father. The complainant informed the petitioner's father that how and under what circumstances, she developed consensual relationship with the petitioner. The father of the petitioner thereupon, told the [2025:RJ-JD:25499] (4 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] complainant- 'S' that she should stay away from his son i.e. the petitioner herein.

On receiving the information about commission of crime, the police officials of PS:- Pratap Nagar Bhilwara, District Bhilwara registered the impugned FIR against the petitioner for offences punishable under Sections 323 and 376(2)(n) of the IPC.

Brief facts giving rise to S.B. Criminal Misc. Petition No.7935/2024 read as under:

In this criminal misc. petition, the petitioner has prayed for quashing of the FIR No.0076/2024 dated 19.03.2024, registered against him at PS- Sadar Bhilwara, District:- Bhilwara by the respondent No.2- 'A' alleging interalia that she came in contact with the petitioner in the year 2020. The petitioner and respondent No.2- 'A' developed liking for each other. In the year 2021, the petitioner took respondent No.2- 'A' in a resort where he developed physical relationship with her on the false pretext of marriage. In the impugned FIR, it has further been alleged that the petitioner continued relationship with respondent No.2 by assuring her that he would marry her in due course of time. Later on, the respondent No.2 came to know that the petitioner is a drug addict and has been sent to the rehabilitation centre.

The complainant -respondent No.2 in the FIR, has further alleged that in the month of May-June, 2023, the petitioner again contacted the respondent No.2- 'A' and called her to Raddison Hotel, Udaipur where he told the respondent No.2 that he could not keep his promise of marrying her as he was in rehabilitation centre. Now since, he has come out of the rehabilitation centre, he will certainly marry her. The petitioner again by assuring the [2025:RJ-JD:25499] (5 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] respondent No.2 on his promise of marrying her, established physical relationship with her. As per the FIR, when the respondent No.2 resisted and protested, the petitioner showed her various obscene videos and photographs and threatened that if she does not accede to the advances made by him

and would make any attempt to discontinue the relationship with him, he would make them viral on social media platforms.

As per the FIR, in the month of February, 2024, the complainant-respondent No.2- 'A' received Snapchat messages from the petitioner who tried to convince her to enter into physical relations with him by forgiving and forgetting his past conduct. However, this time, the complainant-respondent No.2 did not fall in the trap of the petitioner and reported the matter at PS:- Sadar Bhilwara, District:- Bhilwara.

After receiving the complaint, the police officials registered the impugned FIR against the petitioner for offences punishable under Sections 376(2)(n) and 506 IPC.

Brief facts giving rise to S.B. Criminal Misc. Petition No.2324/2025 read as under:

The present criminal misc. petition has been filed by the petitioners seeking quashing of the impugned FIR No.0050/2025 registered at PS:- Pratap Nagar, Bhilwara, District:- Bhilwara.

The allegations in the impugned FIR against the petitioners i.e. Arpit Naraniwal and his father, Sampat Naraniwal are that on 25.01.2025, Arpit Naraniwal called the respondent No.2- 'S' on her cell phone and told her to meet him. When she went to meet the petitioner No.1, he sat in the complainant's car and told her to forget the past, he loves her so much and wants to solemnize [2025:RJ-JD:25499] (6 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] marriage with her. The petitioner No.2 also joined the conversation and assured that they wants to settle all past disputes. The petitioner No.2 instructed the petitioner No.1 and the complainant to return home after tying the nuptial knot in a temple.

Believing upon the assurances of the petitioners No.1 and 2, the complainant travelled with the petitioner No.1 to Chittorgarh in the car of the complainant. As per the FIR, the petitioner No.1 enroute, again by deceiving the complainant established physical relations with her. Later on, when they reached Arya Samaj Mandir for performing marriage rituals, the people working in the said temple, counselled them and told to come the next day for solemnising marriage as per Arya Samaj rites and rituals. As per the FIR, after returning from Mandir, the petitioner No.1 called one of his friends, namely Abhishek Chainani from Udaipur to Chittorgarh as per the planning between the accused persons. When Abhishek Chainani joined the petitioner No.1 and the complainant, they had food in a hotel whereupon, the petitioner No.1 told the complainant that he had no intentions to marry her and brought her to Chittorgarh only with a view to have physical relations with her.

As per the FIR, the entire episode as narrated in the FIR was a result of the conspiracy hatched by the petitioner No.1 in connivance with his father, i.e. the petitioner No.2.

On the basis of the aforesaid facts disclosed by the complainant- respondent No.2 'S', the police officials of PS:-

Pratap Nagar Bhilwara, District:- Bhilwara lodged the above- mentioned FIR against the petitioners for offence punishable under Section 64(1) BNS, 2023.

[2025:RJ-JD:25499] (7 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] The record of the case indicates that prior to filing of S.B. Criminal Misc. Petition No. 7570/2024 with a prayer for quashing of the FIR No. 115/2024 dated 06.02.2024, the petitioner- Arpit Naraniwal preferred S.B. Criminal Misc. Petition No. 4744/2024 - Arpit Naraniwal vs. State and Anr. before this Court seeking issuance of directions to the Police Authorities to conduct a fair inquiry/investigation regarding impugned FIR No. 115/2024 dated 06.02.2024 registered at PS Pratapnagar, District Bhilwara.

The learned Public Prosecutor in the aforementioned Cr. Misc. Petition under the directions of the Investigating Officer informed the Court that after investigation, it transpired that no offence is made out and a negative FR recommending cancellation of FIR has been prepared. The same is likely to be filed in due course before the competent Court.

A coordinate bench of this Court, in view of the fact that negative final report has been prepared by the Investigating Officer vide order dated 23.07.2024, was pleased to dismiss the above-mentioned SB Cr. Misc. Petition No. 4744/2024 by observing that since negative FR is prepared by the investigating agency, no ground to interfere in the investigation is made out.

A challenge to the FIR No. 76/2024 dated 19.03.2024 for the offences allegedly committed by the petitioner under Sections 376(2)(n) and 506 of the IPC was made prior to filing of the present SB Cr. Misc. Petition No. 7935/2024, by way of filing SB Cr. Misc. Petition No. 2403/2024- Arpit Naraniwal v Sate and Anr..

When the SB Cr. Misc. Petition No. 2403/2024 was tcalled out for hearing by the coordinate bench of this Court, the learned Public Prosecutor informed the Court that as per the factual report [2025:RJ-JD:25499] (8 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] dated 29.07.2024 produced by him, the investigation reveals that no offence under Section 376 IPC is made out against the petitioner and a negative FR is accordingly under preparation and shall be filed in due course before the competent criminal Court.

The coordinate bench of this Court, after recording aforesaid statement of learned Public Prosecutor in order-sheet dated 01.08.2024, was pleased to dispose of SB Cr. Misc. Petition No. 2403/2024, as the Court did not find any reason to keep the petition pending.

Arguments in relation to S.B. Criminal Misc. Petition No.2324/2025 made before this Court on behalf of the parties:-

At the time when hearing in relation to S.B. Criminal Misc. Petition Nos.7570/2024, 7935/2024 and 2324/2025 commenced, learned Public Prosecutor submitted that investigation/ inquiry in relation to FIR No.50/2025 registered at PS:- Pratap Nagar, District:- Bhilwara for offences punishable under Section 64(1) BNS, 2023 has

already been concluded and the police after making thorough investigation in the matter has found that no case for alleged offences is made out against the petitioners and a negative final report is being prepared in the matter which shall be filed before the competent criminal Court in due course of time.

Learned counsel for the petitioners submitted that since the negative final report is under preparation in the present case, he has no objection in case the present criminal misc petition is disposed of while granting liberty to the petitioners to approach this Court again in case, occasion so arises.

[2025:RJ-JD:25499] (9 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] In that view of the matter, the instant Criminal Misc. Petition No.2324/2025 and annexed stay petition are disposed of with liberty aforesaid. It is also made clear that the respondent No.2 shall also be at liberty to file a protest petition if so advised, before appropriate forum qua the negative final report.

Arguments in relation to S.B. Criminal Misc. Petitions No.7935/2024 and 7570/2024 raised before this Court on behalf of the parties:-

Learned Senior Advocate, Shri Manish Shishodiya vehemently and fervently contended that a bare perusal of the impugned FIRs would indicate that these have been lodged by the complainants- 'A' and 'S' (respondents No.2) after alleged promise of marriage with each of the complainants made by the petitioner, 4-5 years from the date of lodging of the FIRs. No satisfactory reason for delay in registering the impugned FIRs has been furnished by the complainants. There is nothing on record to establish that the alleged false promise to marry was made from the inception with a view to deceive and establish sexual relationship. Learned senior counsel submitted that the contents of the impugned FIRs on the contrary prima facie indicate long consensual sexual relationship between the parties at different intervals and at different places i.e. hotels situated in thickly populated areas. He submitted that there is absolutely no prima facie case for proceeding further against the petitioner on the allegation of commission of offences punishable under Section 376 IPC.

Per contra, learned Public Prosecutor, learned counsel for the complainant, Ms. Kushi Sharma and complainant- 'S' present in [2025:RJ-JD:25499] (10 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] person jointly submitted that the impugned FIRs clearly disclose that the consent to establish physical relationship was obtained by the petitioner by giving false promise of marriage, though, he did not have any intention to marry the complainants. The complainant- 'S' got so perturbed with the ill behavior and inaction of the petitioner that she tried to commit suicide. It was contended that the live-in relationship agreement dated 19.01.2024 was got prepared by the petitioner by keeping the complainant- 'S' in dark. Even if the contents of the document are taken on the face value, the said document is testimony of the fact that the complainant- 'S' wanted to be in relationship with the petitioner

throughout her life. The petitioner through the aforesaid document assured the complainant- 'S' that he will not only spend rest of his life with her but will also provide her social, financial security for all times to come. In the said document, the petitioner further gave assurance that if any child is born out of their relationship, he will take his/her responsibility and will give him/her social status and identity of being his/her father. It was contended that sufficient material is available on record indicating that the petitioner allured complainants with a false promise of marriage, on their initial refusal and had relationship with them.

It was vehemently contended that police after making investigation in relation to impugned FIRs No.76/2024 and 115/2024 have found the offences to be proved against the petitioner. The police after making thorough investigation, has prima facie reached to a conclusion that the petitioner gave false promise/promises to the complainants to marry. The complainants initially resisted, however, they later on gave the consent believing [2025:RJ-JD:25499] (11 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] that he would marry them and therefore, the consent cannot be said to be a free consent as it was given under misconception. It was urged that since a cognizable offence is made out against the petitioner, this Court in exercise of inherent powers under Section 482 CrPC (Section 528 BNSS) should not quash the impugned FIRs.

Learned counsel for the complainant- 'A' placed reliance on the judgments rendered by the Hon'ble Supreme Court of India, in the following cases:-

- a) K.L.E. Society and Ors. vs. Siddalingesh reported in AIR 2008 SC 1702.
- b) Anurag Soni vs. State of Chandigarh reported in AIR 2019 SC 1857.
- c) Som Mittal vs. Government of Karnataka reported in AIR 2008 SC 1126.

In rebuttal, learned senior counsel, Shri Shishodia contended that the entire investigation in the present case is under the clouds of doubt. To substantiate this contention, learned senior counsel submitted that prior to filing of the present criminal misc. petitions, the petitioner filed S.B. Criminal Misc. Petition No.4744/2024- 'Arpit Naraniwal vs. State & Anr.' and S.B. Criminal Misc. Petition No.2403/2024- 'Arpit Naraniwal vs. State & Anr.' in relation to the FIR Nos.115/2024 and 76/2024 respectively. When the said criminal misc. petitions were taken up for hearing, a specific statement was made by the learned Public Prosecutor that since the negative final reports have been proposed, the matters may be closed. Learned senior counsel submitted that it is really a matter of surprise that how after completion of investigation on [2025:RJ-JD:25499] (12 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] the same set of facts, oral evidence and documents, now the offences have been found to be prima facie proved against the petitioner. He submitted that it appears that after disposal of S.B. Criminal Misc. Petition Nos. 4744/2024- 'Arpit Naraniwal vs. State & Anr.' and S.B. Criminal Misc. Petition Nos. 2403/2024- 'Arpit Naraniwal vs. State & Anr.' due to certain extraneous reasons, the investigation was transferred to new Investigating Officers, who have taken a somersault and have held the offences to be proved against the petitioner. Learned senior counsel submitted that the investigation and the report of the investigation thus, cannot be

said to be free and fair. The petitioner has been made accused on basis of shoddy investigation and therefore, it is a fit case for exercising the inherent powers under Section 482 CrPC (Section 528 BNSS) for quashing of the impugned FIRs with a view to secure the ends of justice.

Before concluding the arguments, learned senior counsel submitted that to the best of the knowledge of the petitioner, the complainants- 'S' and 'A' are close friends and are trying to help each other in extorting money from the petitioner and his family by distorting their social reputation by way of lodging false and frivolous FIRs against the petitioner. He submitted that FIR No.114/2024 has been lodged by the father of the petitioner at PS- Pratap Nagar, Bhilwara against complainant- 'S' for offences punishable under Sections 384 and 451 IPC.

In support of the contentions, learned senior counsel for the petitioner placed reliance on the judgments rendered by the Hon'ble Supreme Court of India in the cases of Mahesh Dhamu Khare vs. State of Maharashtra reported in 2024 SCC OnLine [2025:RJ-JD:25499] (13 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] SC 3471 and Lalu Yadav vs. State of Uttar Pradesh reported in 2024 SCC OnLine SC 2876 respectively.

Heard learned counsel for the petitioners and the learned counsel for the State, learned counsel appearing for respondent 'A', complainant- 'S' who is present in person. Perused the case diaries of the impugned FIRs brought before the Court by the Investigating Officers.

Discussion and Conclusion:-

The Hon'ble Supreme Court of India in a catena of judgments, has held that the powers conferred upon the High Courts under Section 482 CrPC (Section 528 BNSS, 2023) should not be exercised in a routine manner. The inherent powers of quashing criminal proceedings at its inception should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. The High Courts should use the inherent powers cautiously and sparingly particularly when, the FIR against accused person discloses commission of a cognizable offences.

The Hon'ble Supreme Court in State of Haryana & Ors. vs. Bhajan Lal & Ors. reported in AIR 1992 SC 604 in paragraph 102, has held as under:-

"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 extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given 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 channelized and inflexible guidelines or rigid formulae 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.

[2025:RJ-JD:25499] (14 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR 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 FIR 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 the case of Neeharika Infrastructure Pvt Ltd. vs. State of Maharashtra & Ors. reported in (2021) 19 SCC 401, Hon'ble Apex Court has held as under:-

"(i) Where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceeding in respect of the offence alleged. Absence of the requisite sanction may, for instance, furnish cases under this category.

(ii) Where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not.

(iii) Where the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or the evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where

there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an enquiry as to whether the evidence in [2025:RJ-JD:25499] (15 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] question is reliable or not. That is the function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained."

In the aforesaid backdrop, the question which needs to be deliberated upon in the instant criminal misc. petitions, is whether the impugned FIRs No.115/2024 and 76/2024 registered at PS Pratap Nagar, Bhilwara and PS Sadar, Bhilwara which are prima facie disclosing commission of a cognizable offence should be quashed while holding that the allegations in the said FIRs are absurd and improbable on the face of record so much so that no prudent man can reach to a conclusion that there are no grounds for proceeding against the petitioner or criminal proceedings so initiated are malafide and have been instituted with malicious intent of wreaking vengeance on the accused owing to personal grudge or that the criminal proceedings have been launched with ulterior motives.

Section 375 of the Indian Penal Code, 1960 is reproduced hereinbelow for ready reference:-

"375. Rape.--A man is said to commit "rape" if he--

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions--

First.--Against her will.

Secondly.--Without her consent.

Thirdly.--With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly.--With her consent, when the man knows that he is not her husband and that her consent is given because [2025:RJ-JD:25499] (16 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.--With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.--With or without her consent, when she is under eighteen years of age.

Seventhly.--When she is unable to communicate consent."

Section 90 of the Indian Penal Code, 1860 reads as follows:-

"90. Consent known to be given under fear or misconception.--A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or Consent of insane person.--if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or Consent of child.--unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age. "

In the present case, in the impugned FIRs No.115/2024 and 76/2024 registered at PS Pratap Nagar, Bhilwara and PS Sadar, Bhilwara, a specific stance has been taken by both the complainants that the petitioner developed sexual relationship with them by making a false promise of marriage. The petitioner since inception of these relationships, had no intention to honour the said promise. The unambiguous stance of the complainants is that the petitioner with the intention to deceive the complainants to enter into physical relationship, obtained their consent under a fictitious assurance of marriage, which is not valid consent as per Section 90 IPC.

True it is that the facts as disclosed in the impugned FIRs indicate that complainants were in relationship with the petitioner [2025:RJ-JD:25499] (17 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] for a considerable long period of time, but the same also disclose that they were not in continuous relationship and were intermittent. The parties re-entered into the relationship again on being assured by the petitioner that he would marry the complainants. In Indian societal norms, the matters relating to sexual assault in large number of cases are not being reported by women timely in police due to the embarrassment which they may have to face later on. In the facts and circumstances of this case, the possibility of accused taking benefit of the situation or the fear

instilled in the women victim thus cannot be ruled out. It is highly probable that the complainants of the impugned FIRs owing to the embarrassment and on being continuously promised by the petitioner that he would solemnize marriage with the complainants, did not report the matter to the police authorities as they were under a bonafide belief that the petitioner would keep his promise of performing marriage.

The facts of FIR No.115/2024 indicate that the petitioner continuously evaded the false promise of marriage made to complainant- 'S' and the said circumstances drove the complainant- 'S' to attempt to commit suicide by consuming heavy dosage of sleeping pills. Further, the petitioner in order to protect himself, got prepared a stamp paper fortifying the factum of live- in relationship, on which the signatures of the complainant- 'S' were obtained deceitfully without even allowing her to have a glance over the contents of the said documents.

In the opinion of this Court, these acts and actions of the petitioner hint towards the fact that the petitioner had no intention of marrying the complainants from the very beginning. The [2025:RJ-JD:25499] (18 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] document of live-in relationship was got prepared by the petitioner which prima facie indicates that he was giving a fictitious assurance to the complainant that he has started living with her as husband.

The FIR No.76/2024 lodged at PS Sadar Bhilwara, District Bhilwara, indicates that as per the case of the complainant- respondent No.2- 'A' initially refused have physical relations but when the petitioner made a promise to marry, she entered into physical relations with him. Further, their relations discontinued when the petitioner went to rehabilitation centre. However, after returning from the rehabilitation centre, the petitioner again allured the complainant with a false promise to marry her and established sexual relations with her.

This Court having carefully perused the allegations levelled against the petitioner in the impugned FIRs, is of the considered view that possibility of the petitioner obtaining consent for sexual relations from the complainants under misconception of fact cannot be ruled out. This Court while exercising inherent powers under Section 482 CrPC (Section 528 BNSS) cannot minutely go into the correctness of the allegations levelled against the petitioner. At this stage, this Court is not expected to either scan the entire material available on record or to record its finding on each of the charges levelled against the petitioner and therefore, this Court is of the firm view that the impugned FIRs cannot be labelled as false/frivolous FIRs which have been lodged with intention of wreak vengeance or with ulterior motives particularly when the case diaries of impugned FIRs produced before this Court indicate that during the course of investigation, the [2025:RJ-JD:25499] (19 of 19) [CRLMP-7935/2024, 7570/2024 & 2324/2025] investigating agency has collected material to establish commission of an offence, warranting further investigation in the matter.

In wake of discussion made herein above, no ground for quashing of the impugned FIRs is made out and consequently, the S.B. Criminal Misc. Petitions No.7935/2024 and 7570/2024 and the annexed stay petitions are dismissed being devoid of any merit.

Pending applications, if any, also stand disposed of. A copy of this order be placed in each files.

(KULDEEP MATHUR),J

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