

False Promises of Marriage as Sexual Exploitation: Evaluating Criminal Liability Under the Bharatiya Nyaya Sanhita, 2023

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ABSTRACT

The evolving socio-legal landscape in India calls for continual reform of criminal laws to more effectively address gender-based exploitation. The Bharatiya Nyaya Sanhita (BNS), 2023 marks a significant legislative shift by criminalizing sexual relations obtained through false promises of marriage—a gap long unaddressed under the Indian Penal Code (IPC). This provision seeks to safeguard the autonomy and dignity of women by recognizing such deception as a form of sexual exploitation, rather than mere breach of trust. This study critically analyses the legal contours, objectives, and enforceability of this newly codified offense, assessing its potential to serve as a deterrent and its broader implications for criminal jurisprudence on consent. Through an examination of key judicial precedents, comparative frameworks, and real case studies, the paper explores the evidentiary hurdles, potential for misuse, and societal biases that may influence enforcement. It further reflects on the need for interpretative clarity by courts and gender-sensitive law enforcement practices to ensure that the law does not become a tool of selective justice. Ultimately, this research contends that the BNS provision represents a progressive yet complex reform that could redefine the contours of justice for women, provided it is implemented with care, consistency, and constitutional safeguards.

KEYWORDS - Legal reform, Sexual exploitation, Women's rights, Crimes against women, Victim protection, and justice.

INTRODUCTION

India's criminal justice system has evolved from age-old codes to a modern framework, with the Bharatiya Nyaya Sanhita (BNS) having replaced the Indian Penal Code (IPC) on July 1, 2024. The BNS in itself is not entirely dissimilar to the IPC. It retains some of the original provisions, while some others have either been overhauled or replaced. Few entirely new provisions have also been added and an example of this is Section 69 of Chapter V of the Bharatiya Nyaya Sanhita, 2023. This section pertains to sexual intercourse by employing deceitful means. Having probed the section, it has been categorised into three important, interdependent elements. (Shah, 2024)

Firstly, sexual intercourse to which consent was induced either by a promise to marry without the intention of fulfilling it from the very beginning ('a false promise') or by deception, which may include a false promise of marriage by suppressing identity, is a punishable offence under this section of the BNS.

Secondly, an indispensable proviso is that such an offence shall not amount to and cannot be tried as rape.

Finally, such an offence is punishable with an imprisonment, the maximum time being ten years and a fine payable to the aggrieved. (Mandal, 2014, pp. 255-272) It exposits how this provision departs from its predecessor, sets forth crucial questions on consent and delves into the spectrum of different kinds of promises. The equivocal sentence for punishment and the susceptibility to misuse by different parties is also highlighted. Finally, the piece respectfully touches upon the systematic exclusion of certain groups from seeking recourse. (Kulshreshtha, 2024, pp. 281-313)

CRIME AGAINST WOMEN

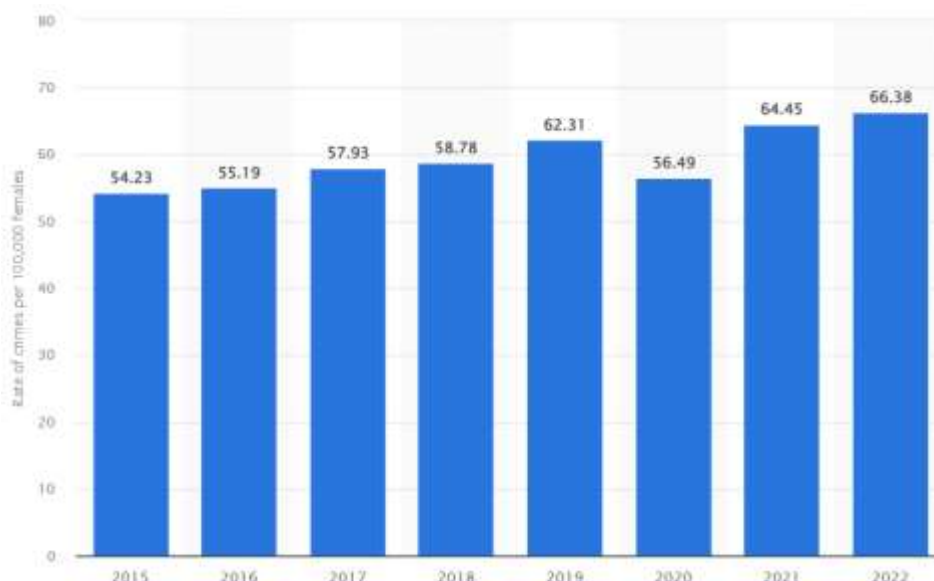
India, recognised for its unique culture and customs, has also confronted a persistent issue of crimes against women. Notwithstanding constitutional assurances of equality and legal protections for women's rights, the grim reality of gender-based violence persists as a significant concern. Crimes against women include several offences, including domestic abuse, sexual assault, dowry harassment, and people trafficking. This article examines the legal framework pertaining to these offences, referencing significant case law and pertinent regulations. (Chadha, Saxena, & Pundhir, 2024)

The Indian Constitution safeguards women's rights through Articles 14 and 15, which emphasize equality before the law and equal protection of rights. Article 15 prohibits discrimination based on religion, race, caste, sex, or place of birth. Clause (3) allows the state to enact measures for women and children. Article 21 provides basic rights, including the right to life and personal liberty. India has enacted laws to protect women from various forms of abuse, including the Indian Penal Code of 1860 (IPC), which includes Section 376 for rape, Section 498A for cruelty by spouses or relatives, and Section 354 for assaulting or using criminal force to insult a woman's modesty. Other acts include the “Protection of Women from Domestic Violence Act, 2005, the Dowry Prohibition Act of 1961, the Workplace Sexual Harassment – Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, and the Immoral Traffic (Prevention) Act, 1956”, which address trafficking and sexual exploitation for money exchange. (Meena, 2024)

The judiciary has been essential in interpreting laws and administering justice in situations involving crimes against women. In “**Vishaka & Ors. v. State of Rajasthan & Ors. (1997 AIR 3011, 1997 SCC (6) 241)**”, the Supreme Court established the Vishaka Guidelines to prohibit sexual harassment in the workplace, which were subsequently codified in the 2013 Act. The notable case, “**Shakti Vahini v. Union of India & Ors. (AIR 2018 SC 1601)**”, examined honour murders, underscoring the need for preventative measures and attributing accountability to Khap Panchayats for these offences. In “**State of Punjab v. Gurmit Singh (1996 AIR 1393, 1996 SCC (2) 384)**”, the court emphasised the need of a compassionate attitude towards rape survivors and the imperative to safeguard their dignity during legal proceedings. The ruling in “**Lillu @ Rajesh & Anr. v. State of Haryana (2013) 14 SCC 643**” prohibited the two-finger test, deeming it a breach of a rape survivor's dignity and privacy as protected by Article 21. In “**Independent Thought v. Union of India (2017 10 SCC 800)**”, the court deemed marital rape involving children as a criminal offence, emphasising that the exemption under Section 375 IPC is inapplicable to females under 18. (Majumdar & Chattopadhyay, 2024, p. 853)

Despite the fact that the Indian government has brought special legislation to deal with cases of crime on women, several barriers still persist. Many women are too ashamed to report offences because of stigma and others cannot do so because they are afraid of being dismissed by their employers or fired. This is because trial prolongation and the number of cases reduce the effectiveness of legislation as a deterrent measure; prejudice based on gender among the police and the judiciary exposes the victims to secondary victims. Also, the Gender and Patriarchy continue to perpetrate violence and discrimination against women. These problems underline the need for institutional changes in order to ensure legal reforms and ensure justice to the victims. (Ali & Mukhopadhyay, 2024) An analysis of crimes against women and prevention A society's non-governmental organisations (NGOs) and civil society play a significant role in countering crimes against women. In the case of as helplines, counselling, and legal aid are lifesaving for survivors of gender-based violence. Gender awareness campaigns aim at challenging well-entrenched stereotype and promoting gender equity. Here, significant results can be reached aboard a cooperative project of the state and civil society in the fight against gender-based violence. (Singh, 2013, pp. 19-31)

Figure 1 Rate of crimes against women in India from 2015 to 2022



Source: <https://www.statista.com/statistics/1155088/india-crime-rate-against-women/>

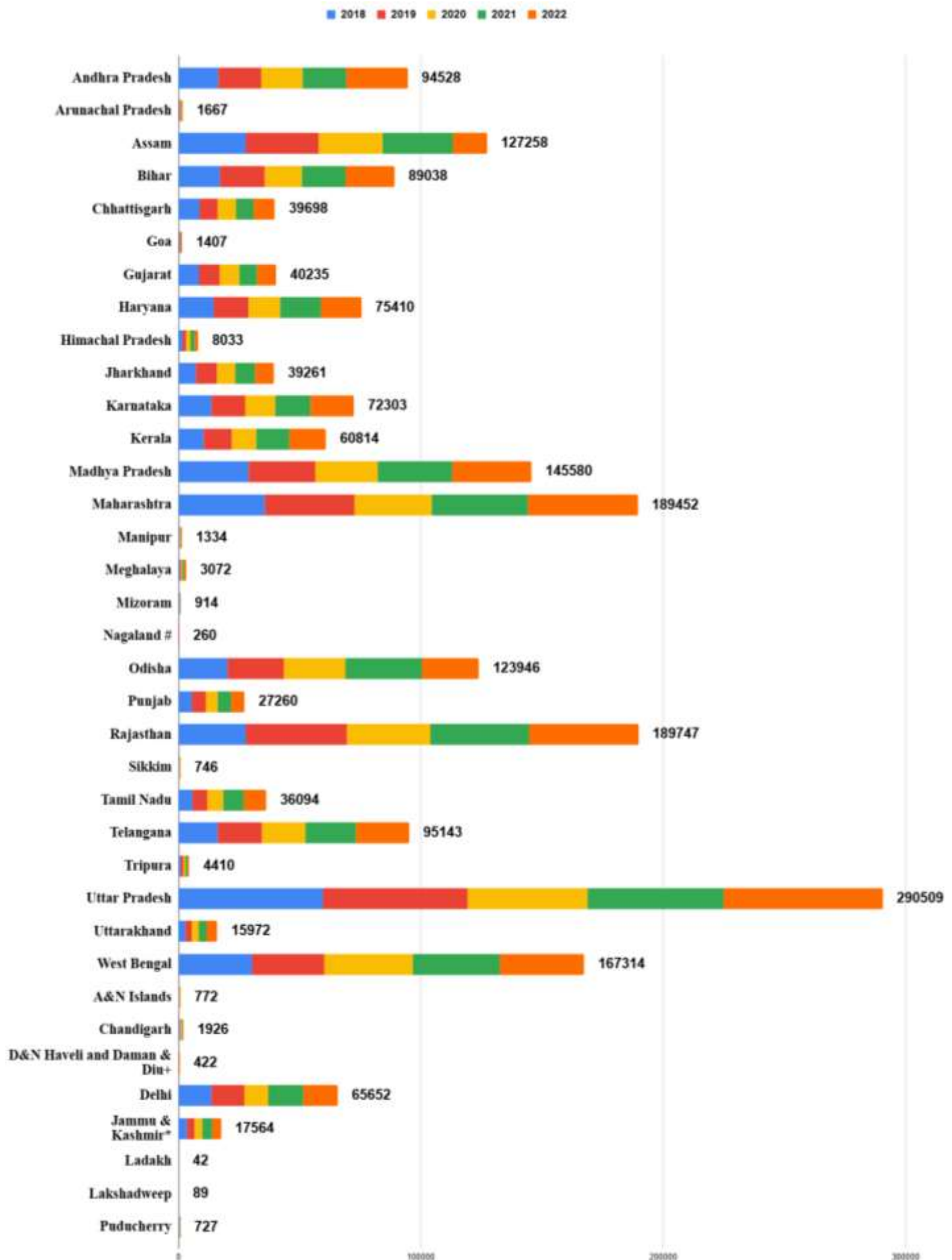
In 2022, over 66 out of every 100 thousand women in India were victims of a crime. In comparison to the last year's figures, a rise in the crime rate was observed. Several psychological and patriarchal factors can result in an escalation of crime against women. (Statistics, 2023) To combat crimes against women, a comprehensive plan and contingency strategies are needed. This includes imposing harsher penalties for recidivism and expanding the category of offenses to accommodate new forms of violence. More fast-track courts should be opened, and police and judicial personnel should be trained to handle sensitive cases. Gender sensitization initiatives should be encouraged at the base levels to reduce patriarchy. Technology can also help in crime reporting, offender tracking, and awareness creation. While India has made progress in combating women's criminals, further development is needed. (Basu, 2011, pp. 185-211) The legal framework is sound, but social change is needed to create conditions for women to lead dignified, safe lives. While some liberal policies have been enacted, a collective commitment to gender equality is essential for sustainable change. Addressing institutional obstacles and promoting a culture of equality can help India fulfill its constitutional commitment to a society free from gender-based violence. (Shrivastava, 2024)

Table 1 State/UT-wise Cases Registered under Total Crime against Women during 2018-2022

SL	State/UT	2018	2019	2020	2021	2022
1	Andhra Pradesh	16438	17746	17089	17752	25503
2	Arunachal Pradesh	368	317	281	366	335
3	Assam	27687	30025	26352	29046	14148
4	Bihar	16920	18587	15359	17950	20222
5	Chhattisgarh	8587	7689	7385	7344	8693
6	Goa	362	329	219	224	273
7	Gujarat	8329	8799	8028	7348	7731
8	Haryana	14326	14683	13000	16658	16743
9	Himachal Pradesh	1633	1636	1614	1599	1551
10	Jharkhand	7083	8760	7630	8110	7678

11	Karnataka	13514	13828	12680	14468	17813
12	Kerala	10461	11462	10139	13539	15213
13	Madhya Pradesh	28942	27560	25640	30673	32765
14	Maharashtra	35497	37144	31954	39526	45331
15	Manipur	271	266	247	302	248
16	Meghalaya	571	558	568	685	690
17	Mizoram	249	170	172	176	147
18	Nagaland #	75	43	39	54	49
19	Odisha	20274	23183	25489	31352	23648
20	Punjab	5302	5886	4838	5662	5572
21	Rajasthan	27866	41550	34535	40738	45058
22	Sikkim	172	125	140	130	179
23	Tamil Nadu	5822	5934	6630	8501	9207
24	Telangana	16027	18394	17791	20865	22066
25	Tripura	907	1070	874	807	752
26	Uttar Pradesh	59445	59853	49385	56083	65743
27	Uttarakhand	2817	2541	2846	3431	4337
28	West Bengal	30394	29859	36439	35884	34738
29	A&N Islands	147	135	143	169	178
30	Chandigarh	442	515	301	343	325
31	D&N Haveli and Daman & Diu+	54	82	61	99	126
32	Delhi	13640	13395	10093	14277	14247
33	Jammu & Kashmir*	3437	3069	3405	3937	3716
34	Ladakh	-	-	9	18	15
35	Lakshadweep	11	38	15	9	16
36	Puducherry	166	95	113	153	200

Source: <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2024-pdfs/LS06082024/2412.pdf>



FALSE PROMISE TO MARRY UNDER INDIAN PENAL CODE: LEGAL PROVISIONS AND JUDICIAL INTERPRETATIONS

The issue of a false promise to marry has been a subject of legal scrutiny in India, primarily under the purview of the Indian Penal Code (IPC), 1860. While the IPC does not explicitly define the offense of obtaining consent for sexual intercourse through a deceptive promise of marriage, courts have interpreted such acts under Section 375 (Rape) read with Section 90 (Consent under Misconception of Fact) and, in certain cases, under Section 415 (Cheating) and Section 417 (Punishment for Cheating). The judiciary has played a crucial role in determining whether such promises vitiate consent, leading to criminal liability. (Sharma & Roy, 2024, p. 456)

Legal Framework and Provisions Under IPC

Under Section 375 IPC, rape is defined as sexual intercourse with a woman without her free and voluntary consent. Explanation 2 to this section clarifies that consent must be "an unequivocal voluntary agreement", and Section 90 states that consent obtained under misconception of fact is not legally valid. Courts have consistently held that when a man induces a woman into a sexual relationship under a false promise of marriage, and if it is later established that he never intended to marry her, the consent obtained is deemed invalid, making the act punishable as rape. (Purva, 2024, p. 1490) Additionally, Section 415 IPC, which deals with cheating, comes into play in cases where the accused dishonestly induces a woman into a sexual relationship by making false representations about marriage. In such cases, Section 417 IPC prescribes punishment for cheating, which may extend up to one year or with a fine, or both. However, the application of these provisions depends on whether the promise to marry was made fraudulently or in good faith at the time of consent. (Sharma & Anil, 2023, p. 348)

Judicial Interpretations and Landmark Case Laws

Indian courts have laid down clear jurisprudence on false promises to marry, distinguishing between cases where the accused initially intended to marry but later failed to do so and cases where there was a clear fraudulent intent from the beginning. (Garg, 2019, pp. 737-754)

In **Uday v. State of Karnataka (2003) 4 SCC 46**, the Supreme Court held that not every failed promise to marry amounts to rape. If both individuals are mature adults and entered into a consensual relationship, the accused cannot be held criminally liable unless it is proven that he never intended to fulfill the promise in the first place.

Similarly, in **Pramod Suryabhan Pawar v. State of Maharashtra (2019) 9 SCC 608**, the Supreme Court clarified that in order to establish rape under a false promise to marry, the prosecution must prove that the accused never had the intention to marry from the outset. If the promise was made in good faith but could not be fulfilled due to subsequent circumstances (such as family opposition or personal differences), it does not amount to rape.

The case of **Deepak Gulati v. State of Haryana (2013) 7 SCC 675** reaffirmed this position, stating that a false promise to marry only amounts to rape when the accused's intention was fraudulent from the beginning. If the promise was sincere but later rescinded due to unforeseen reasons, no offense under Section 375 IPC is made out.

However, in **Anurag Soni v. State of Chhattisgarh (2019) 13 SCC 1**, the Supreme Court convicted the accused under Section 375 IPC after establishing that he had no intention of marrying the victim from the start and induced her into a sexual relationship under a deliberate pretense.

The legal stance on false promises to marry is clear: it constitutes rape under Section 375 IPC when the accused never intended to fulfill his promise from the outset, and the woman's consent was solely based on that assurance. However, if a promise was made in good faith and could not be honored due to valid reasons, it does not attract criminal liability. Through various landmark judgments, the Supreme Court has carefully balanced women's rights against deception with the need to prevent misuse of rape laws in cases of failed relationships.

PATRIARCHAL PRESUMPTIONS AND CONSTITUTIONAL CONFLICTS IN SECTION 69 BNS

What does Section 69 say?

“Chapter 5 of the Bill- It is titled as Offences against woman and children and describes sexual intercourse by employing deceitful means.

Section 69- Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, and has sexual intercourse with her, shall be punished with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine.

Deceitful means- It will include false promise of employment or promotion, inducement or marrying after suppressing identity.

False promise to marry- It will be attracted only when a man makes a promise to marry a woman, with the intention of breaking it, for the purpose of getting her consent and sexually exploiting her.

Penalty- Both offences will attract a penalty of up to 10 years of imprisonment.”

For one to be punished by this section, the act of sexual intercourse should have been consented to by solely or integrally relying upon a duplicitous and an insincere promise. The language of the section plainly implies that only a woman can seek redressal for consent obtained perfidiously. Only a man and a woman can legally be wed in India, subject to other essential conditions. It can rationally be inferred that the phrase ‘by making promise to marry a woman without any intention of fulfilling the same’ hints at the fact that such offences can be redressed only when perpetrated against a woman by a man. Such restrictive language leads to two major shortcomings: it excludes male victims and reinforces the stereotype of male perpetrators. Drawing on an earlier inference, this section is deemed to be inherently prejudicial towards men; it renders the law ineffective in holding female perpetrators accountable, thus leaving no recourse to those who suffer just as much damage, emotional or otherwise, at the behest of the perpetrator. (SN, 2023, p. 90)

The second, more profound repercussion that casts aspersions on the socio-legal progress our country have made is the set of misogynistic and patriarchal fundamentals of the section. (Vishwanath, 2018, p. 1) The section propounds the idea that men alone can hold positions of authority, that men alone can propose marriage. Furthermore, an undesired repercussion of this section is that it can be grossly misused by various others, not just parties to a suit, to vilify and criminalise wilful sexual encounters before marriage. (Atrey, 2022, pp. 611-641) This is profoundly harmful in a society like ours which places significant importance on concepts of purity and virginity. Additionally, it may instil in the man the fear of prosecution on mala fide allegations and undermines their right to consensual, physical relations. (Jangir, 2023, p. 42)

It was noted in *Uday v the State of Karnataka* that such cases require a subjective analysis to do complete justice which would lay bare germane facts like the communication between the parties, the number and frequency of sexual encounters, a historical analysis of their relationship and more. (Kennedy, 2021, p. 91) Evidently, the section violates peoples' right to privacy under Article 21, an inevitable repercussion of adjudging matters of

sexual offences, but the said violation is more threatening considering the taboo live-in relationships and pre-marital relations are, owing to which, the parties may face the threat of persecution, eviction, dismissal from jobs and in adverse cases, the threat of violence. Thus, the section violates and undermines peoples' fundamental rights under Articles 14, 19 and 21. (Agnihotri, 2023, p. 504)

Blurred Boundaries of Consent and Ambiguous Punishments in Section 69, BNS 2023

Section 69 of the BNS departs from its predecessor by not equating such a sexual offence to that of rape. Earlier any such case which alleged sexual intercourse that was induced by false promises was dealt with under Section 375, read along with Section 90 of the IPC. Section 375 defined rape and Section 90 explicated that consent obtained under a misconception of fact, which judicial intellect has paralleled to a false promise, would not be valid. This poses an ethical question. While rape inherently involves a lack of consent, Section 69 questions the validity of consent induced through deceit, blurring the line between genuine and fraudulent intentions. (Singh, 2023)

The other side denies such a difference and questions whether a consent that was obtained perfidiously can be considered 'free?' If not, then should the observed gravity of the offence be diminished based solely on its definition? Another important question to be asked is about the requirement of proof and on whom will the burden of proof lie? (Pundik, 2015, p. 98) The final point of contention relates to the punishment that is to be delegated if found guilty under the said section, which only mentions the maximum time for which a person can be imprisoned and a fine. There is no mention of a minimum sentence or the least amount of time for which a man can be put behind bars. This leaves room for ambiguity possibly resulting in a travesty of justice. (Gupta, 2023, pp. 103-104)

Promises And Prejudices: The Misuse of Law and Exclusion in Section 69, BNS 2023

There is a difference between a false promise and a genuine promise that was broken in the later stages of the relationship. The former is a promise that the promisor never intended to fulfil and was mala fide ab initio. The latter is a promise that, when initially made, was well-intentioned but due to subsequent circumstances, was broken. (Gibson, 2020, p. 94) By failing to account for the difference between the two, not considering the situations where the intent to marry has changed, the law remains vague about the proceedings in light of such differences and objectively imposes criminal liability. For instance, a man, out of true love and other validating reasons, proposes marriage to his partner. However, due to certain circumstances that ensued, the couple parted ways. In such cases, a woman may exploit her position and bring proceedings against the man maliciously. If the man fails to prove that the promise was broken subsequently for unrelated reasons, he will be sentenced for a crime that he had not committed. (Rana, 2023, p. 626)

The law is susceptible to misuse even when there never was an utterance of such a promise but was merely alleged by the woman. Another such example can be of a woman maliciously bringing proceedings against her boss, even though their relationship might have never materialised on the promise of a promotion. (Caringella, 2009, p. 198)

A situation wherein a woman's family is horrified upon learning of her relations with a man and initiates proceedings against the man is plausible. In December 2021, a sessions court in Ahmedabad, had acquitted a man of charges of rape when pertinent facts of the relationship were brought to light and it was observed how the woman had tried to bring such an unfounded and vindictive case against the man. (Scheidegger, 2021, p. 775) The legislative intellect could have been dispensed to ensure that the occurrence of such scenarios, which were plenty under the IPC regime, are mitigated post 1st July. (Sonavane, 2023, pp. 89-103)

Section 69 never says that these acts are necessarily perpetrated only by a man, however, legal protection will primarily be extended to women who have been directly affected. In essence, members of the LGBTQ+ community will have no legal backing to be able to knock on the doors of the court. With regard to same sex couples, consensual sexual intercourse was decriminalised in 2018. Hence, if a person in such a relationship were to be wronged by their partner either by way of being proposed marriage in a different country or by not being told of their marital status, the person wronged would have no support from the law. In essence, the law guarantees certain rights to the members of the LGBTQ+ community but will not come to the rescue of the person if their rights are infringed upon in light of false promises to marry. (Agarwal, 2022, p. 1028)

CHALLENGES IN PROVING ‘INTENTION’ TO MARRY: LEGAL AND SOCIAL IMPLICATIONS

The issue of false promises to marry has been a contentious subject in Indian jurisprudence, with courts struggling to differentiate between a breach of promise and a deliberate deception. Under criminal law, a man can be held guilty of rape under Section 375 IPC if he induces a woman into a sexual relationship by falsely promising marriage while never intending to fulfill that promise. However, proving the accused's intention at the time of obtaining consent remains a complex issue. (Brogaard, 2022, p. 694) The Bharatiya Nyaya Sanhita (BNS), 2023, under Section 69, attempts to codify this offense but does not fully resolve the ambiguity surrounding false promises versus breach of promise. The debate extends beyond legal principles, touching upon issues of women's autonomy, societal norms, caste discrimination, and potential misuse of the law. (Kaintura, Gill, & Verma, 2022, pp. 6317-6323)

Proving ‘Intention’ to Marry: The Central Issue

A key difficulty in such cases is determining whether the accused had a genuine intention to marry at the time of obtaining consent or whether he deceived the woman by making a fraudulent promise. Courts have drawn a distinction between: (Dsouza, 2022, p. 1191)

1. Consent obtained through deceit or misconception: If a man never intended to marry and used a false promise merely as a tool for sexual exploitation, the woman's consent is vitiated, making it an offense under Section 375 IPC.
2. Genuine promise that could not be fulfilled: If the man initially intended to marry but later failed to do so due to circumstances beyond his control (such as parental opposition, caste barriers, or personal incompatibility), it constitutes a breach of promise, which does not amount to rape.

Judicial pronouncements such as *Pramod Suryabhan Pawar v. State of Maharashtra* (2019) 9 SCC 608 have reinforced that false promise cases hinge on proving the accused's intent at the time of consent, which is often difficult due to lack of direct evidence. (Parthasarathy & Oza, 2020, p. 72)

Codification Under BNS and the Unresolved Distinction

The Bharatiya Nyaya Sanhita (BNS), 2023, under Section 69, incorporates the offense of false promise to marry rather than creating a new provision. However, it does not resolve the confusion between a deliberate false promise and a mere breach of promise. This lack of clarity risks criminalizing genuine relationship failures, thereby diluting the spirit of rape laws. (Srinivasan, 2018, pp. 213-234)

Impact on Women's Autonomy and Victim Blaming

Another concern with Section 69 BNS is that it may reinforce restrictive ideas about women, marriage, and consent. Rather than recognizing women's agency in sexual relationships, such laws may portray them as passive victims who lack independent decision-making power. The Delhi High Court's approach to pre-marital

sex further complicates the issue by shifting the burden onto women to prove that their consent was vitiated. This victim-blaming perspective undermines women's rights and places undue emphasis on their sexual history rather than the accused's deceptive conduct. (Thomas & Thenmozhi, 2019)

Misuse of the Law as a Weapon

While laws protecting women from deception are essential, there is also concern that such provisions may be misused. (Chan, 2022, p. 82) There have been instances where false cases have been filed for personal vendetta or coercion. The Supreme Court in **Deepak Gulati v. State of Haryana (2013) 7 SCC 675** acknowledged that while women should be protected from deception, the law must also guard against its misuse for revenge or pressure tactics. (Brereton, 2019, pp. 41-62)

Caste Factor and Promotion of Endogamy

One of the most alarming aspects of judicial reasoning in some cases is the use of caste as a defense to acquit the accused. Courts have sometimes ruled that if an inter-caste marriage was "impossible" due to societal norms, the accused could not have intended to marry the woman, thereby negating the charge of rape. (Dhonchak, 2019, p. 4) This reasoning, in effect, reinforces endogamy, strengthens caste hierarchies, and distracts from the actual harm faced by women. The law should focus on women's rights and bodily autonomy rather than indirectly upholding caste-based restrictions on marriage. (Arora, 2019, p. 170)

The issue of false promises to marry presents a complex legal and social challenge. The key difficulty lies in proving the accused's intention at the time of obtaining consent, a determination that is often subjective and circumstantial. (Garg, 2019, p. 737) While Section 69 BNS attempts to codify the offense, it fails to resolve the critical distinction between a false promise and a mere breach of promise. Additionally, rigid interpretations of consent, the risk of misuse, and caste-based biases in judicial reasoning further complicate the issue. A balanced legal approach must ensure that genuine cases of deception are punished while also safeguarding individual autonomy, preventing misuse, and upholding women's right to make informed choices in their relationships. (Mathur, 2019)

DELHI HIGH COURT: INTENTION OF ACCUSED UNDER SECTION 376 IPC CAN ONLY BE DETERMINED AT TRIAL STAGE

Divyansh Bajpai V. The State (Govt. Of NCT of Delhi) & Anr. With Neutral Citation: 2025: DHC:371

The Delhi High Court has reaffirmed that the intention of a person accused under Section 376 IPC (rape) at the time of making an alleged promise of marriage can only be conclusively determined during trial. The Court dismissed a petition under Section 482 CrPC seeking to quash an FIR registered under Section 376 IPC, holding that the allegations in the FIR and the victim's statement under Section 164 CrPC disclosed a prima facie case, warranting further judicial scrutiny. A Single Bench of Justice Chandra Dhari Singh ruled that the petitioner's intention at the time of making the alleged promise remains a matter of dispute and cannot be conclusively determined at this stage. The Court observed that such an issue is a factual question requiring evidentiary scrutiny, and at this stage, it cannot be definitively concluded whether the petitioner acted with mala fide intent.

Case Background

The case involved a complaint by the victim, who alleged that she was in a long-term relationship with the petitioner. She claimed that the petitioner coerced her into a physical relationship by falsely promising marriage. The petitioner allegedly assured her that he intended to marry her, leading her to consent to sexual relations on multiple occasions at various locations, including his residence and hotels booked by her. The victim further alleged that the petitioner persuaded her to leave her home and elope with him, but instead of proceeding with

marriage, he left her at her sister's house, stating that he needed time to convince his family. Thereafter, he ceased communication, changed his phone number, and ignored her attempts to contact him. Feeling deceived, the victim subsequently lodged an FIR against the petitioner under Section 376 IPC.

Court's Observations and Reasoning

The petitioner argued that no prima facie case was made out against him under Section 376 IPC since both parties engaged in a consensual relationship. However, the High Court clarified that for a false promise to vitiate consent, it must be shown that:

1. The promise of marriage was made in bad faith, with the sole intent of deceitfully inducing the prosecutrix into a sexual relationship.
2. The false promise must have been of immediate relevance such that it directly influenced the victim's decision to engage in sexual acts with the accused.

The Court also noted the statement of the petitioner's landlord, who confirmed that the victim frequently visited the petitioner's residence and that both presented themselves as a married couple. This aspect further warranted a detailed examination at trial.

Legal Interpretation of False Promise and Consent

The Bench emphasized that while a mere failure to fulfill a promise of marriage does not constitute a criminal offense, a promise made without any intention to fulfill it from the beginning may vitiate consent under Section 90 IPC. The nature of the relationship between the parties plays a crucial role in determining whether a promise of marriage was genuinely made and whether the victim's consent was vitiated by a misconception of fact.

After examining all relevant facts and circumstances, the High Court concluded that the allegations disclosed a prima facie case under Section 376 IPC, necessitating a trial for proper adjudication. Accordingly, the Court dismissed the petition for quashing the FIR, holding that further judicial inquiry was required.

CONCLUSION

Section 69, intended as a protective measure for women, unfurls antiquated notions, infringes upon personal liberties and is intensely prone to misuse. While the intention behind criminalising such an act can be appreciated, the section grossly impinges on the rights of many, excludes many others from approaching the court and undermines crucial constitutional and judicial values. It might not always come to the rescue of women because of its inherent impediments and the sheer number of acquittals due to procedural lacunae that may arise. Many survivors may hesitate to seek recourse owing to fear of vilification or ostracization. It is unfortunate that a prima facie progressive provision methodically excludes the LGBTQ+ community. The section can greatly benefit from being made gender neutral. It is imperative that this provision be revised so that it reflects the contemporary society's ways than the colonial era times.

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