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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 12857 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MRS. JUSTICE M. K. THAKKER

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Approved for Reporting Yes No ✔

========== [redacted] =====

STATE OF GUJARAT & ANR.

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Appearance:
MR. BHAVIN B THAKAR(9371) for the Applicant(s) No. 1
MS. MONALI BHATT, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MRS. JUSTICE M. K. THAKKER**

Date : 02/11/2026

ORAL JUDGMENT

1. Rule returnable forthwith. Learned APP Ms. Monali Bhatt waives service of Rule on behalf of the Respondent State.

2. The present application is filed for following reliefs:

A. YOUR LORDSHIPS may be pleased to admit and allow this Petition;

B. YOUR LORDSHIPS may be pleased to quash and set aside

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FIR registered at Mahila Police Station (East), Ahmedabad being FIR C.R NO. 11191047260009 of 2026 (ANNEXURE-A) and proceedings there of against the present Applicants in the interest of justice.

C. Pending admission, hearing and final disposal of this Petition YOUR LORDSHIPS may be pleased to stay the FIR registered at Mahila Police Station (East), Ahmedabad being FIR C.R NO. 11191047260009 of 2026 (ANNEXURE-A) & and all proceedings arose from the impugn FIR against the present Applicant.

D. YOUR LORDSHIPS may be pleased to grant any further relief as may be deemed fit and proper in the facts and circumstances of the case and in the interest of justice.

3. It is the case of the petitioner that the petitioner and the complainant are belonging to the same community and are known to each other since 2-1/2 years. The age of the complainant was 23 years, and she was studying 3rd year B.Com. As the complainant and the petitioner was knowing each other, and the intimacy developed between them, therefore in year 2024, the petitioner went to the house of complainant, and thereafter the parents of the complainant were agreed for the marriage of the complainant with the petitioner, and agreement

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was also shown by the parents of the petitioner. The engagement was fixed at Hotel Silvera Grand, however, on the same day, some family member of the petitioner died, therefore, the engagement could not perform. Upon asking with regard to marriage, it was conveyed to the parents of the complainant that marriage is to be solemnized with the complainant only. Under such assurance, the complainant had accompanied the petitioner at Udaipur on 24th, 25th and 26th of January 2025 where under the promise to marry, they both entered into sexual relations. Thereafter, in the hotel situated near Nikol, the physical relations were continued. Subsequently, the demand was raised by the father of the petitioner with regard to amount of Rs.15 lakhs for continuation of the engagement which was agreed by the parents of the complainant. In the month of May 2026, when the father inquired with regard to date of marriage with the family members of the petitioner, they refused to get marry the complainant with the petitioner, and the petitioner has also conveyed to the complainant that he does not want to marry with the complainant. In that background, the impugned FIR is

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filed alleging the charge of Section 69 of the BNS.

4. Heard Mr.B. B. Thakar for the petitioner and learned APP, Ms. Monali Bhatt, for the State.

5. It is submitted by learned advocate that the petitioner is a Computer Engineer worked as Fronted Developer in Softyoi LLP. It is submitted that the FIR itself demonstrates that the relationship between the parties were not created by the petitioner through any false representation made at the inception. It is submitted that false intention of the petitioner to marry with the complainant does not reflect from the inception of the relationship. It is submitted that, in fact, there was no clear denial from the parents with regard to marriage, and the petitioner has also not clearly denied to marry with the victim, however, the complainant has decided to register her marriage on 16.05.2026 which was not done, and that is resulted into criminal prosecution. It is submitted that as per the settled law mere breach of the promise cannot be treated as the false promise, and prosecution has to establish that promise was false when it was made, and that accused had no intention of

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fulfilling it from very beginning. It is also submitted that there is a clear distinction between the rape and consensual sexual relations as well as mere breach of promise and false promise. It is submitted that proposed marriage was being actively pursued by families even after commencement of relationship, and subsequent refusal cannot retrospectively convert an offense which was otherwise consensual relationship. It is submitted that, in that background, it cannot be said that ingredients of an offense punishable under Section 69 of the BNS is not made out, therefore, impugned proceedings deserves to be interfered with.

6. Having considered the submission made by learned advocate, and the allegations made in FIR along with the investigation material placed by the learned advocate, it emerges that the engagement was fixed by the family member which was not solemnized because of some death in the family of the petitioner. The age of the complainant is 23 years, and subsequently, the demand is raised by the family of the petitioner for Rs.15 lakhs, which was also agreed by the parents of the complainant. It is contented by the learned advocate that petitioner

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has insisted for marriage on a particular date i.e. on 16.05.2026, which was not done, and therefore, it was resulted into the impugned FIR. Along with the complaint, the report placed by the Women Police Station (East), Ahmedabad City dated 29.06.2026, reveals that because of the physical relationship of the petitioner and the complainant, the complainant conceived and the pregnancy was terminated which was of 5-6 weeks. The statement of Dr. Bindiya recorded on 16.06.2026 reveals that the complainant and the petitioner came together, and has requested to terminate the pregnancy. The consent was taken from the petitioner as well as the complainant in Form-C, and thereafter, she proceeded for termination of pregnancy.

7. It is true that the complainant was a mature lady aged around 23 years, however, it cannot be denied that under the guise to marry with the complainant, the sexual relationships were developed. There is no reason stated by the complainant or by the petitioner for not marrying with each other. Without any reasons denying for the marriage after entering into the physical relationship under the guise to marry, in the opinion of this Court,

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would certainly attract the charges of Section 69 of the BNS. The object of enactment of Section 69 is to protect the sexual assault under the false promise of marriage. It is not in dispute that there is a clear distinction between rape and consensual sex, however, upon examining the circumstances only, it can be inferred that whether the accused actually wanted to marry with the victim or had mala fide motives and had made false promise to satisfy his lust, and as latter falls within the ambit of cheating or deception. Though mere breach of promise and not fulfilling the false promise, however, in the instant case, without citing any reasons, the accused refused to marry with the complainant, suggests that from the inception his intent was not to marry, but under the guise of promise of marriage entered into physical relationship.

8. Considering the above discussion, in the opinion of this Court, when the cognizable offence is disclosed against the present petitioner and the case of the petitioner does not fall under any of the criteria stated in the decision rendered by the Hon'ble Apex Court in the case of ***State of Haryana Vs. Bhajanlal*** reported in ***AIR 1992 SC 604***, it cannot be said that the continuation of process is

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abuse of process of law and the powers under Section 482 is required to be exercised to secure the ends of justice.

9. Resultantly, the present petition is hereby dismissed. Rule is discharged.

(M. K. THAKKER,J)

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