



2026:UHC:800

Judgment Reserved on:12.12.2025

Judgment Pronounced on:11.02.2026

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Miscellaneous Application No.2082 of 2023

Suraj BoraApplicant

Versus

State of Uttarakhand and AnotherRespondents

Presence:

Mr. Pawan Mishra, learned counsel for the Applicant.
Mr. Vijay Khanduri, learned Brief Holder for the State of Uttarakhand.

Mr. Shubhang Dobhal alongwith Mr. Bhupendra Singh Bora, learned counsel for Respondent No.2.

Hon'ble Ashish Naithani, J.

1. The present application under Section 482 of the Code of Criminal Procedure has been filed by the Applicant seeking quashing of the charge-sheet dated 22.07.2023, the cognizance order dated 05.10.2023 passed by the learned Chief Judicial Magistrate, Dehradun, and the entire proceedings of Criminal Case No. 6110 of 2023 (State vs. Suraj Bora), arising out of FIR No. 31 of 2023, registered under Sections 376, 323, 504 and 506 I.P.C. at Police Station Mussoorie, District Dehradun.
2. The case of the State, as disclosed from the FIR, is that the Applicant and Respondent No.2 were acquainted with each other and had been in a relationship. It is alleged that on the assurance of marriage, the



Applicant developed physical relations with the complainant over a considerable period. It is further alleged that on 05.03.2023 the Applicant again assured that he would marry her within 45 days, but later refused to do so, which led the complainant to lodge the FIR on 17.05.2023, alleging commission of rape and other allied offences.

3. The FIR itself indicates that both the Applicant and the complainant are major. The relationship between them is admitted to be of long duration. The allegations are founded primarily on the assertion that physical relations were established on the promise of marriage and that subsequently the Applicant declined to marry her.
4. Learned counsel for the Applicant submitted that a bare reading of the FIR and the material collected during investigation clearly shows that the Applicant and Respondent No.2 were major and were in a relationship for a considerable period of time. It was argued that the prosecutrix herself admits continuous interaction and physical relationship with the Applicant, which prima facie establishes that the relationship was consensual in nature.
5. It was contended that the entire prosecution case is founded only on the allegation that the Applicant had assured marriage and later declined to marry the complainant. Learned counsel argued that mere breach of a promise to marry does not constitute the offence of rape unless it is shown that the promise was false from the very inception and was given only to obtain consent for physical relations.
6. It was further submitted that neither the FIR nor the charge-sheet discloses any specific material to show that at the inception of the



relationship the Applicant never intended to marry the complainant. On the contrary, the long continuation of the relationship itself indicates that this was, at the highest, a failed relationship and not a case of deception.

7. Learned counsel emphasized that continuation of the criminal proceedings in such circumstances would amount to abuse of the process of law and would subject the Applicant to unnecessary harassment. It was, therefore, prayed that this Court may exercise its inherent jurisdiction under Section 482 Cr.P.C. and quash the charge-sheet, cognizance order and the entire criminal proceedings.
8. Per contra, learned counsel appearing for the State opposed the application and submitted that after due investigation, the Investigating Officer has filed the charge-sheet on the basis of the statements of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. and other material collected during investigation. It was contended that the prosecutrix has consistently alleged that her consent was obtained on the assurance of marriage and that the Applicant later refused to fulfil the said assurance.
9. It was argued that whether the promise of marriage was false from the inception or whether it was a case of subsequent breach is a pure question of fact which cannot be decided in proceedings under Section 482 Cr.P.C. and can only be adjudicated upon during trial on the basis of evidence.
10. Learned counsel for Respondent No.2 adopted the submissions of the State and further contended that the allegations disclose the



commission of serious offences and that the Applicant is seeking a premature appreciation of evidence, which is impermissible in inherent jurisdiction.

11. It was submitted that at this stage the Court is only required to see whether the allegations prima facie disclose the commission of an offence, and not whether the prosecution is likely to succeed. Since the charge-sheet discloses triable issues, the application deserves to be dismissed.
12. Heard learned counsel for the parties and perused the records.
13. Having given anxious consideration to the rival submissions and upon a careful scrutiny of the FIR, the charge sheet, and the material collected during investigation, this Court is of the considered view that the present case squarely warrants exercise of inherent jurisdiction under Section 482 of the Code of Criminal Procedure.
14. It is not in dispute that the Applicant and Respondent No.2 were both majors at the relevant time and were in a relationship spanning a considerable period. The FIR itself acknowledges continued interaction, voluntary companionship, and repeated consensual physical relations between the parties. The prosecution case is founded exclusively on the allegation that such relations were established on an assurance of marriage which was subsequently not fulfilled.
15. The legal position governing such cases is no longer res integra. Consent for sexual relations, when given by an adult woman, does not become vitiated merely because a relationship ultimately culminates in



refusal to marry. To attract the offence under Section 376 IPC on the ground of promise of marriage, it must be prima facie shown that the promise was false from the very inception and was made solely as a device to obtain consent. A mere breach of promise, howsoever reprehensible morally, does not ipso facto constitute rape in the absence of material indicating initial deception.

16. In the present case, neither the FIR nor the charge sheet discloses any specific circumstance, conduct, or contemporaneous material suggesting that the Applicant never intended to marry the complainant from the inception of the relationship. On the contrary, the admitted long duration of the relationship, repeated interactions, and continued voluntary association militates against an inference of initial fraudulent intent. The allegations, taken at their face value, at best indicate a relationship that subsequently failed, which by itself cannot be criminalised under Section 376 IPC.

17. This Court is conscious that at the stage of exercising jurisdiction under Section 482 Cr.P.C., it does not ordinarily undertake appreciation of evidence. However, where the uncontroverted allegations and admitted circumstances do not disclose the essential ingredients of the offence alleged, continuation of criminal proceedings would amount to abuse of the process of law. The inherent powers of this Court exist precisely to prevent such misuse and to secure the ends of justice.

18. Allowing the prosecution to proceed in the present case would result in subjecting the Applicant to the rigours of a criminal trial in the absence of foundational facts necessary to sustain the charge. Such continuation would serve no legitimate purpose and would instead



operate as a tool of harassment, which the inherent jurisdiction of this Court is duty bound to prevent.

19. This Court, therefore, finds that the present case falls within the recognised categories where criminal proceedings deserve to be quashed at the threshold, as the allegations do not prima facie constitute the offence alleged and the dispute essentially arises out of a failed consensual relationship between two adults.

ORDER

The Criminal Miscellaneous Application under Section 482 of the Code of Criminal Procedure is **allowed**.

The charge sheet dated 22.07.2023, the cognizance order dated 05.10.2023 passed by the learned Chief Judicial Magistrate, Dehradun, and the entire proceedings of Criminal Case No. 6110 of 2023 (State vs. Suraj Bora), arising out of FIR No. 31 of 2023, registered at Police Station Mussoorie, District Dehradun, are hereby **quashed**.

The application stands disposed of accordingly.

(Ashish Naithani, J.)

Dated:11.02.2026

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