# CODIFYING THE FALSE PROMISE: SECTION 69 OF THE BHARATIYA NYAYA SANHITA, 2023 AND THE UNEASY MIGRATION OF 'DECEITFUL MEANS' FROM RAPE JURISPRUDENCE TO A STANDALONE OFFENCE

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## ABSTRACT

Section 69 of the Bharatiya Nyaya Sanhita, 2023 takes a rule that judges built over many years, the idea that a false promise of marriage can turn consent into no consent at all, and turns it into a separate criminal offence. The new offence goes further than the old rule. It also covers false promises of a job or a promotion, and cases where a person hides who they are before marrying someone. At the same time, the law says clearly that this offence is not rape. This paper argues that turning the doctrine into a statute has made the underlying problem worse, not better. It locks in the doctrine at its widest point, cuts deceit loose from the careful test for consent that Section 90 of the old Indian Penal Code once supplied, and leaves the offence's outer edge to be decided after the fact by a judge guessing at what the accused really felt at the time. Drawing on the Uday, Deepak Gulati and Pramod Suryabhan Pawar line of Supreme Court decisions, along with the first wave of High Court rulings on Section 69 itself, this paper sets out three interpretive controls: treating the falsity of the promise at its inception as the real wrongful act, giving real weight to the word 'by' so that only deceit that actually caused the sexual act counts, and applying constitutional discipline against vague language. The paper also looks at how Section 69 sits next to Section 63 on rape, since the same facts can currently be charged either way at the choice of the police or the prosecutor, and argues that Section 69 should be read as the only route for promise based prosecutions. It ends with three concrete proposals for Parliament: define deceit in a closed list rather than an open one, write the inception test into the statute itself, and set the punishment to match the harm of fraud rather than borrowing the punishment for rape.



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## 1. Introduction: From Judicial Doctrine to Statutory Offence

### 1.1 The Codification Move and What It Freezes In

Before July 2024, there was no separate crime in India called sexual intercourse by deceitful means. What existed instead was a rule that judges built case by case, starting from Section 90 of the Indian Penal Code, which said that consent given under a wrong belief about a fact is not real consent in the eyes of the law. Over nearly two decades, the Supreme Court used this rule to answer a hard question: when does sex that followed a promise of marriage become rape once the promise falls through? By 2019, in Pramod Suryabhan Pawar v. State of Maharashtra, the Court had settled on a fairly narrow test, discussed in detail in Section 3 of this paper. Section 69 of the Bharatiya Nyaya Sanhita, 2023 takes that judge made rule and lifts it out of its old home inside the law of rape. It turns deceitful means into its own offence, separate from rape, and at the same time widens it to cover false promises of a job or a promotion, and cases where a person hides their identity before marrying someone. One commentary in the Economic and Political Weekly frames this move as writing the false promise to marry doctrine into the statute book for the first time and warns that keeping the provision at all may do more harm than good.[1] This paper agrees that the codification is a significant and risky step, but for a different reason. It argues that the real damage lies not in codifying the doctrine as such, but in codifying it at its most expansive point while cutting it loose from the discipline that used to come with Section 90.

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### 1.2 Thesis: A Codification That Detaches Deceit From Consent

This paper's central claim is that codification has not simply carried the old doctrine forward. It has changed it for the worse in three ways. First, it takes the doctrine at its widest and most fact dependent point and turns that width into a fixed statutory rule, rather than letting it narrow over time the way judge made law usually does. Second, it detaches the false promise idea from the consent framework built around Section 90 IPC, so a court applying Section 69 no longer has to work through the full misconception of fact test that used to discipline these cases. Third, even after codification, the outer boundary of the offence still depends on a judge guessing, months or years later, what the accused genuinely felt and intended at the moment the promise was made,

[1]Bharatiya Nyaya Sanhita and the False Promise to Marry, Econ. & Pol. Wkly. (May 2024), https://www.epw.in/journal/2024/18/commentary/bharatiya-nyaya-sanhita-and-false-promise-marry.html.

which is one of the hardest things for any court to know for certain. A blog post on the doctrinal implications of Section 69 makes a similar point, describing the provision as taking a flexible, case by case judicial rule and freezing it into a rigid statutory offence, and arguing that the result is both too broad and potentially harmful.[2] This paper builds on that concern but goes further, by proposing specific interpretive controls, discussed in Sections 3 through 5, that courts can use right now, while Section 69 remains on the books in its current form.

## 2. Foundations: Section 69 BNS and What It Inherits

### 2.1 The Statutory Text: Marriage, Employment, Promotion, and Identity Suppression

Section 69 of the Bharatiya Nyaya Sanhita, 2023 punishes a person who has sexual intercourse with a woman by deceitful means, or by making a promise to marry her without any intention of keeping that promise, with imprisonment of up to ten years and a fine. An explanation attached to the section spells out what deceitful means includes. It gives three examples: a false promise of employment or promotion, inducement, or marrying a woman after hiding one's true identity. A statutory explainer that reproduces the section and its explanation in full makes clear that these examples are stated as illustrations, not as an exhaustive list, so the words deceitful means are not limited to promises of marriage at all.[3] This point matters for how the rest of this paper is organised. Most writing on Section 69 so far treats it as though it were only about broken engagements. The statute itself is wider than that, and Section 3.3 of this paper returns to the employment and promotion limb specifically, since it has received almost no separate analysis even though it carries the same ten year maximum sentence.

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### 2.2 From Section 90 IPC to a Standalone Offence: What the BNS Changed

Before the BNS, a case of this kind depended on reading Section 375 of the Indian Penal Code, which defined rape, together with Section 90 IPC on consent, refined over time by the Supreme Court's inception falsity test in Pramod Suryabhan Pawar. Section 69 breaks this link. It takes the same category of conduct completely outside the definition of rape and gives it a separate, lower

[2]Guest Post, Love, Lies and Section 69 of the BNS, The Proof of Guilt (Mar. 2025), https://theproofofguilt.blogspot.com/2025/03/guest-post-love-lies-and-section-69-of.html.
[3]BNS Section 69 – Sexual Intercourse by Employing Deceitful Means etc., LawRato, https://lawrato.com/bharatiya-nyaya-sanhita/bns-section-69 (last visited Sept. 27, 2026).

band of punishment, while keeping almost the same vocabulary that courts had already built up around consent and deceit under the old law. A peer reviewed analysis of Section 69 traces this lineage in detail and argues that the provision's wide and open ended definition of deceitful means is the main source of both its constitutional risk and its evidentiary difficulty.[4] The result, as this paper develops in Section 6, is that the same set of facts can now, in principle, be charged under either Section 63, which defines rape under the BNS, or Section 69, since consent obtained by a false promise still falls within the misconception of fact language that feeds into the definition of rape.

### 2.3 The Pre-Codification Doctrine: Uday to Pramod Suryabhan Pawar

The doctrine that Section 69 now codifies did not appear overnight. Its earliest square treatment is often traced to Jayanti Rani Panda v. State of West Bengal, a 1984 decision of the Calcutta High Court that held a promise to marry broken later did not by itself make earlier consensual sex into rape.[5] The idea was carried forward and consolidated nearly two decades later in Uday v. State of Karnataka, where the Supreme Court held that a mature woman's continued sexual relationship, despite her own awareness of obstacles to the marriage, could not be treated as consent given under a misconception of fact.[6] Commentators have criticised Uday itself for the way it reasoned about the complainant's background, and a feminist and anti caste critique traces the doctrine's origin to this case while naming its costs for complainants from marginalised communities.[7] The doctrine hardened further in Deelip Singh v. State of Bihar, which held that a promise made deliberately, with no real intention of marrying the woman, does vitiate consent, and in Yedla Srinivasa Rao v. State of A.P., which applied similar reasoning where a false promise was used to overcome the complainant's initial refusal.[8] By the time Pramod Suryabhan Pawar was decided in 2019, this line

[4]Section 69 of the Bharatiya Nyaya Sanhita, 2023: A Critical Analysis of Consent, Deceit, and the Carceral Regulation of Intimacy, Indian J.L. & Legal Rsch., https://www.ijllr.com/post/section-69-of-the-bharatiya-nyaya-sanhita-2023-a-critical-analysis-of-consent-deceit-and-the-car.

[5]Jayanti Rani Panda v. State of West Bengal, 1984 Cri. L.J. 1535 (Cal.) (India) (pinpoint citation to be confirmed against the original law report before submission).

[6]Uday v. State of Karnataka, (2003) 4 S.C.C. 46 (India).

[7]The Quint, New Criminal Law Bills: The Section on 'False Promise to Marry' Aids Victim Blaming, https://www.thequint.com/opinion/new-criminal-law-bills-ipc-crpc-evidence-act-false-promise-of-marriage-section-analysis.

[8]Deelip Singh alias Dilip Kumar v. State of Bihar, A.I.R. 2005 S.C. 203 (India); Yedla Srinivasa Rao v. State of A.P., (2006) 11 S.C.C. 615 (India).

of cases had produced the two part inception falsity test that Section 3 of this paper examines closely, and Section 69 has inherited both the vocabulary and the unresolved tensions of that line of cases, without inheriting the discipline that Section 90 IPC's language once supplied.

## 3. First Interpretive Control: Inception Falsity as the Offence's Core Actus

### 3.1 Deepak Gulati and the False Promise / Breach of Promise Distinction

The first control this paper proposes is that courts should treat the falsity of the promise at the moment it was made, not the failure of the relationship later, as the real wrongful act under Section 69. This comes directly from Deepak Gulati v. State of Haryana, where the Supreme Court drew a sharp line between a promise that was false when made, with no intention of ever being honoured, and a promise made honestly that later could not be kept because circumstances changed.[9] Only the first kind of promise can supply the dishonesty that an offence under Section 69 requires. A commentary on the decision states this distinction directly and traces how it was later picked up and sharpened in Pramod Suryabhan Pawar.[10]

#### *3.1.1 What Deepak Gulati Actually Decided and Why the Prosecutrix's Maturity Mattered*

It helps to look closely at the facts the Court relied on in Deepak Gulati. The complainant was an adult who, on her own evidence, left her home willingly to be with the accused, and the Court paid close attention to her age and her own understanding of the difficulties standing in the way of the marriage. These facts were not incidental. They fed directly into the Court's conclusion that there was no proof the accused had lied about his intentions from the start, so his conviction could not stand.[11] The case shows that inception falsity is not a test a court can apply from the promise alone. It has to be tested against the surrounding facts, including how mature and aware the complainant was and how the relationship actually unfolded.

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[9]Deepak Gulati v. State of Haryana, (2013) 7 S.C.C. 675 (India).
[10]CaseMine, Supreme Court Clarifies the Distinction Between Breach of Promise and False Promise to Marry, https://www.casemine.com/commentary/in/supreme-court-clarifies-the-distinction-between-breach-of-promise-and-false-promise-to-marry/view.
[11]Delhi Law Academy, SC on Consent & Rape: Deepak Gulati v. Haryana, https://www.delhilawacademy.com/sc-deepak-gulati/.

### *3.1.2 Pramod Suryabhan Pawar and the Two-Proposition Test*

In Pramod Suryabhan Pawar v. State of Maharashtra, the Supreme Court turned this case law into a clear two part test. Consent is vitiated by a promise of marriage only if, first, the promise was false and made in bad faith at the time it was given, and second, the promise had a direct and immediate connection to the woman's decision to have sex.[12] Both parts have to be satisfied together. A case note on the decision lays out both propositions and the facts that led the Court to find that neither one was made out on the record before it.[13] This paper treats both propositions, taken together, as the working definition courts should read into the words deceitful means and without any intention of fulfilling in Section 69, since the statute itself supplies no definition of its own.

### 3.2 Objective Indicators: Concealed Marriage, Parallel Negotiations, Immediate Abandonment

Since a court can rarely look directly into a person's mind at the moment a promise was made, it has to rely on outward facts that point one way or the other. Three such facts recur across the case law: a concealed existing marriage, marriage negotiations with someone else carried on at the same time as the promise, and abandonment of the complainant right after the sexual act. A concealed existing marriage is probably the clearest of the three, because a person who is already married knows, as a simple matter of fact, that they cannot lawfully marry anyone else, so any promise to do so is dishonest from the moment it is made. A recent Allahabad High Court decision refused to quash proceedings against a man accused of keeping an eleven year relationship going while concealing a marriage he already had, treating the concealed marriage as strong evidence of inception falsity.[14] These objective indicators matter because a bare claim by the accused that he loved the complainant, or a bare claim by the complainant that she was deceived, cannot on its own settle the question. Courts need something they can actually check against the record.

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[12]Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 S.C.C. 608 (India).
[13]LawFoyer, Pramod Suryabhan Pawar v. State of Maharashtra (2019) 9 SCC 608, https://lawfoyer.in/pramod-suryabhan-pawar-v-state-of-maharashtra-2019-9-scc-608/.
[14]Legal Bites, Deceptive Promise of Marriage by a Married Man Invokes Section 69 BNS, https://www.legalbites.in/bharatiya-nyaya-sanhita/deceptive-promise-of-marriage-by-a-married-man-invokes-section-69-bns-1240563.

### 3.3 Inception Falsity Beyond Marriage: Employment and Promotion Promises

Almost every piece of writing on Section 69 so far focuses on marriage promises and says little about the section's other limb, false promises of employment or a promotion. This gap matters because the same ten year maximum sentence applies to both limbs, and the same inception falsity test should logically govern both. If a promise of a job or a promotion was false and made in bad faith at the time it was given, and it directly led to the sexual act, the offence is made out on the same reasoning as a false marriage promise. If the promise was made honestly but the job later fell through, or the promotion was later given to someone else for genuine reasons, there is no offence, just as an honestly made but later broken engagement is not an offence. A critical commentary on this part of Section 69 argues that the drafting appears to assume, without saying so, that only men hold positions of workplace power over women, and it points out that the statute gives no separate limiting principle for this limb at all.[15] Courts applying Section 69 to a workplace promise should therefore import the same inception falsity control developed in this section, so that an employee's ordinary disappointment at a lost promotion does not become a criminal charge.

## 4. Second Interpretive Control: Causation and the Word 'By'

### 4.1 Deceit as Operative Inducement, Not Incidental Fact

The second control this paper proposes comes from a single word in Section 69 that most commentary passes over quickly, the word by. The section punishes sexual intercourse obtained by deceitful means, and that word carries a causal requirement. The deceit has to be the actual reason the woman agreed to have sex, not just some fact that happened to exist somewhere in the background of the relationship. A detailed study of 132 reported Section 69 decisions across seventeen High Courts frames the central judicial question in exactly these terms, asking in each case whether there was dishonest intent right at the start, and shows how courts test that question against the whole run of facts in a relationship rather than against the promise in isolation.[16] Reading the word by seriously is what stops Section 69 from turning into a general law against

[15]NAVA.Legal, Section 69 of BNS: Should the Law on Sexual Intercourse by Deceitful Means Be Gender Neutral?, https://navalegal.in/section-69-of-bns-should-the-law-on-sexual-intercourse-by-deceitful-means-be-gender-neutral/.

[16]Khemka & Associates, Section 69 BNS False Promise of Marriage: Analysis of 132 High Court Cases, https://www.khemkaassociates.com/post/section-69-bns-false-promise-of-marriage-analysis.

disappointing someone in a relationship, since almost every failed relationship involves some degree of hope or assurance that later proves unfounded.

### 4.2 Long Relationships and the Limits of Retrospective Criminalisation

The clearest illustration of the causation control at work is the judiciary's treatment of long relationships. In Shivashankar alias Shiva v. State of Karnataka, the Supreme Court found it difficult to call an eight year relationship rape, particularly where the complainant's own case was that the two had lived together as husband and wife throughout.[17] Commentary on the decision, and on later cases applying the same reasoning under the BNS, treats this as a settled limit: once intimacy has continued for years, independently of any single promise, a later falling out cannot turn the whole relationship into an offence caused by deceit.[18] The Karnataka High Court has applied the same logic more than once since, holding in one case that a five year relationship could not retrospectively be read as rape, and the reasoning has also reached the newer BNS provision, with more than one High Court holding that a consensual relationship between adults does not automatically turn into an offence under Section 69 merely because the parties never formalised it. This pattern, spanning both the old law and the new, is exactly what the causation control in this paper is meant to capture. Length and mutuality of a relationship are not decisive by themselves, but they are strong evidence that the sexual relationship was not caused by any single deceitful promise.[19]

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## 5. Constitutional Exposure: Gender Asymmetry and Vagueness

### 5.1 Article 15(3) and the Survivability of Sex-Specific Drafting

Section 69 protects only women as victims, and in practice it can only be used against men. This asymmetry invites an obvious Article 14 challenge, since Article 14 guarantees equal treatment before the law. The State's answer rests on Article 15(3) of the Constitution, which lets the State make special provision for women, precisely because formal equality on paper does not always

[17]Shivashankar alias Shiva v. State of Karnataka & Anr., (2019) 18 S.C.C. 204 (India).
[18]CaseMine, Prolonged Consensual Relationship and the Limits of False Promise of Marriage: A New Legal Principle, https://www.casemine.com/commentary/in/prolonged-consensual-relationship-and-the-limits-of-false-promise-of-marriage:-a-new-legal-principle/view.
[19]PMFIAS, Section 69 of BNS: Judicial Interpretations & Challenges, https://www.pmfias.com/section-69-of-bns/.

produce real equality in practice. The social consequences of premarital sex still fall much more heavily on women than on men in most parts of India, in terms of stigma, marriageability and family reaction, and Article 15(3) exists to let the law respond to exactly that kind of uneven starting point. An article on this question sets out both the Article 14 challenge and the Article 15(3) answer side by side and concludes that the constitutional defence, while open to argument, is not simply arbitrary.[20] That said, this defence has a real gap. The BNS defines woman narrowly for the purpose of Section 69, and a transgender complainant has already been held unable to invoke the section at all, with a High Court reasoning that only a person falling within the statutory definition of woman is protected.[21] Article 15(3) is generally understood to justify giving extra protection to a disadvantaged group, not to justify leaving another vulnerable group with no protection at all, so this exclusion sits uneasily with the very constitutional basis the provision relies on.

### 5.2 'Deceitful Means' as an Undefined, Illustrative Term

A separate objection concerns the word identity in the explanation clause. Since the list of examples in the explanation is illustrative rather than exhaustive, courts are left to work out case by case what counts as suppressing one's identity, and how far that idea stretches. Civil society commentary has raised a specific worry here, that this open ended wording could give legal cover to accusations built on the unproven love jihad narrative around interfaith relationships, since a person who does not immediately disclose their religion, out of fear of their family's reaction, and whose relationship later ends, could have that silence recast as criminal deceit.[22] For a criminal offence carrying up to ten years in prison, leaving a core term this undefined is a serious problem. Until Parliament steps in, courts should read identity and deceitful means narrowly, and should require the same clear proof of inception falsity and direct causation set out in Sections 3 and 4 of this paper before treating any non-disclosure as a criminal offence.

[20]NAVA.Legal, supra note 15.

[21]LawBeat, Transgenders Cannot Invoke Rape on False Promise of Marriage Provision, Section 69 of BNS Applicable Only to Women: Himachal Pradesh High Court (Sept. 14, 2024), https://lawbeat.in/news-updates/transgenders-cannot-invoke-rape-false-promise-marriage-provision-section-69-bns.

[22]Anuradha, Uncovering the Covered: Section 69 BNS and the Politics of Identity, Hindu C. Gazette (July 28, 2025), https://www.hinducollegegazette.com/post/uncovering-the-covered-section-69-bns-and-the-politics-of-identity.

### 5.3 The Kerala High Court Challenge: A Live Constitutional Question

These constitutional questions are not only academic. A public interest petition is pending before the Kerala High Court, arguing that Section 69 is regressive toward women and discriminates against LGBTQ persons by assuming only a man can make and break a promise to marry a woman.[23] Reporting at the time indicated that the Court had issued notice to the Union of India in September 2024 on grounds under Articles 14, 19 and 21, and that the provision's exclusion of non-heterosexual relationships was specifically raised.[24] As of the preparation of this paper, no final decision in that matter has been confirmed, and the exact current stage of the case should be checked again immediately before this paper is submitted, since a live constitutional challenge can move, or be transferred, or be joined with other petitions, at any time.

## 6. The Structural Problem: Section 69 Against Section 63

### 6.1 Prosecutorial Election Between Rape and a Standalone Offence

Consent obtained by a false promise still falls within misconception of fact, and that language still feeds into the definition of rape under Section 63. This means that, right now, the exact same set of facts can be charged either as rape under Section 63, which carries a much higher minimum sentence, or as the lesser offence under Section 69, and which one gets charged depends on the choice of the police or the prosecutor rather than on any clear line drawn by the statute itself. One analysis states this overlap plainly and argues that, without an amendment to fix it, Section 69 sits in unresolved tension with Section 63 instead of replacing or narrowing it in any clear way.[25] This is not a small or theoretical problem. Police data compiled across Himachal Pradesh for 2020 to 2022 shows that false promise of marriage allegations made up 16.5 per cent of all registered rape

[23]LiveLaw, [False Promise To Marry] PIL In Kerala HC Says Section 69 BNS Regressive Towards Woman's Status, Discriminates Against LGBTQ Community (2024), https://www.livelaw.in/high-court/kerala-high-court/kerala-high-court-pil-challenge-section-69-bharatiya-nyaya-sanhita-false-promise-to-marry-rape-269058.

[24]Verdictum, Discriminatory To Presume That Only Man Can Make Promise To Marry And Deceive: Kerala HC Issues Notice In Plea Challenging Constitutionality Of Section 69 Of BNS, Vimal Vijay v. Union of India, W.P.(C.) No. 31598/2024 (Ker.) (2024), https://www.verdictum.in/court-updates/high-courts/vimal-vijay-v-union-of-india-ors-wpc-no-31598-2024-rape-false-promise-to-marry-1551006 (status to be verified immediately before submission).

[25]Legacy IAS Academy, Section 69 of the BNS Is Redundant, https://www.legacyias.com/section-69-of-the-bns-is-redundant/.

cases in the state, the second largest category after cases involving relatives, which means a large share of real cases will run straight into this uncertainty about which provision applies.[26]

### 6.2 Restoring Section 63 to Force, Incapacity, and Impersonation

Rather than treating this overlap as a reason to call Section 69 redundant and scrap it, this paper argues that courts, and eventually Parliament, should treat Section 69 as the only route for prosecutions based on a promise or on deceit, leaving Section 63 to cases involving force, incapacity to consent, or impersonation. This would stop the same old double counting problem, which existed under the IPC and which commentators have already flagged as simply carrying forward under new section numbers, from continuing under the BNS.[27] Read this way, a prosecutor faced with a false promise case would have one clear provision to use, Section 69, rather than a choice between two provisions with very different punishments attached to the same conduct.

### 6.3 Toward Statutory Amendment: Exhaustive Definition, Inception Requirement, Calibrated Punishment

Narrow judicial construction, of the kind proposed in Sections 3 through 5 of this paper, can hold this line for now, but it cannot hold it forever. Three specific changes to the statute would resolve what judicial interpretation alone cannot. First, Parliament should replace the current illustrative explanation clause with a closed, exhaustive list of what counts as deceitful means, so that the boundary of the offence does not depend on case by case judicial invention. Second, it should write the inception falsity requirement directly into the text of Section 69, rather than leaving it to be read in by courts following Deepak Gulati and Pramod Suryabhan Pawar, so that the requirement survives even if judicial attitudes shift over time. Third, it should set the maximum punishment for Section 69 by reference to the harm actually done by fraud, rather than simply borrowing the ten year ceiling that applies to rape under Section 63. No published source located for this paper proposes this exact three part package, and the recommendation is offered here as this paper's own synthesis of the interpretive controls developed in Sections 3 to 5. The author should check, before

[26]Relatives Accused in Nearly Half of Rape Cases in Himachal in Past Three Years: Police Data, Deccan Herald, https://www.deccanherald.com/india/relatives-accused-in-nearly-half-of-rape-cases-in-himachal-in-past-3-years-police-data-1174652.html.
[27]The Proof of Guilt, supra note 2.

final submission, whether any Law Commission report or parliamentary standing committee proposal on this point has since overtaken this recommendation.

**7. Reading Section 69 Narrowly Until the Legislature Reads It Better**

Section 69 of the Bharatiya Nyaya Sanhita, 2023 does not settle the uncertainty that surrounded the false promise of marriage doctrine under the old law. It writes that uncertainty into the statute book. A rule that judges built up carefully, case by case, under Section 90 read with Section 375 of the Indian Penal Code, and sharpened into a clear two part test in Pramod Suryabhan Pawar, has now been lifted out of that framework, set up as its own offence, marked as expressly not rape, and stretched further to cover false promises of employment or promotion and the suppression of identity. The result is a law with a ten year maximum sentence built on a foundation the statute itself never defines. The outer edge of deceitful means is left to an open ended, illustrative explanation clause, and the line between honesty and dishonesty is left to a judge's after the fact reading of what an accused person truly meant, sometimes years before the case even reaches court.

Until Parliament steps in, this paper has argued that courts should apply three interpretive controls drawn from the case law that came before Section 69 itself. First, the falsity of the promise at the time it was made, not the failure of the relationship afterward, should be treated as the offence's real wrongful act, following the distinction drawn in Deepak Gulati and refined in Pramod Suryabhan Pawar, with objective facts such as a concealed marriage, parallel marriage talks with someone else, or sudden abandonment doing the evidentiary work that a bare claim of feeling cannot. Second, the causal requirement carried by the word by should be enforced with equal care, ruling out long relationships where intimacy came before, or existed apart from, any specific promise, a limit that the statute's own employment and promotion language makes even more necessary, since treating every intimate relationship as a transaction would criminalise ordinary disappointment on a very wide scale. Third, courts should apply real constitutional discipline. The gender specific drafting of Section 69 can likely survive an Article 14 challenge because of Article 15(3), given the genuine and uneven social consequences that still attach to premarital sex in India, but this defence does not extend to the exclusion of transgender complainants, and it does not answer the separate and serious vagueness concern raised by the undefined word identity, a concern now before the Kerala High Court in a case that remains pending as this paper is written.

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Underneath all three controls lies a deeper design problem this paper has also addressed. Section 69 sits in an uneasy space between rape and no offence at all, and because consent obtained by a false promise still counts as consent obtained under a misconception of fact, the exact same set of facts can currently be charged either as rape under Section 63 or as the lesser offence under Section 69, at the choice of the prosecution, with very different consequences attached to the same underlying conduct. This is the same double counting problem that courts already criticised under the old law, now simply carried forward under new section numbers. This paper has proposed that Section 69 be read, and eventually amended, as the only channel for promise based and deceit based prosecutions, restoring Section 63 to its proper place covering force, incapacity and impersonation. A narrow judicial reading can hold this line for the time being. It cannot hold it forever. Parliament should define deceit in a closed list, write the inception falsity requirement into the statute itself, and set the punishment to match the real harm of fraud, rather than borrowing a sentencing ceiling from rape purely out of drafting habit.

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