

5. Section 69 Of BNS – Polity

Karnataka High Court has quashed FIR and criminal proceedings against an advocate accused under Section 69 of Bharatiya Nyaya Sanhita (BNS), 2023, along with related sections.

Background of the Case

The complainant alleged that an advocate developed a close relationship with her and had sexual relations on the promise of marriage, but later refused to marry. Criminal proceedings were initiated by invoking Section 69 BNS (along with other allied provisions), treating the promise of marriage as “deceit”.

What the High Court Clarified

Failed relationship is not automatically a crime

The Court emphasised that “disappointment, failed affection, or collapse of a relationship” cannot, by itself, be converted into criminal prosecution under Section 69 BNS. Criminal law is not meant to punish the breakdown of consensual relationships.

Deceit is the heart of Section 69

Section 69 targets fraud/deception leading to sexual intercourse, and not merely emotional harm from a later refusal to marry. The “promise of marriage” becomes criminal only when it is shown to be a dishonest device to obtain consent.

Mens rea must exist at the inception

The Court highlighted that a “false promise of marriage” is punishable only if, at the very beginning, the promise was made without any intention to fulfil it. A subsequent refusal to marry does not automatically establish deceit at the time consent was given.

No retroactive criminalisation

The Court cautioned against using Section 69 for retroactive criminalisation—i.e., turning a formerly consensual relationship into an offence only after disputes arise.

Safeguard against misuse, while retaining protection for genuine exploitation

The ruling functions as a filter against misuse where criminal law is invoked as retaliation, while preserving the section’s purpose to address sexual exploitation by deception.

Section 69 BNS, 2023– What the Law Says

Legal scope

Section 69 criminalises sexual intercourse “not amounting to rape” when obtained–

1. By deceitful means, or
2. By a promise to marry made without any intention of fulfilling it.

Punishment – Punishable with imprisonment up to 10 years and fine.

Explanation in the provision (illustrative)

“Deceitful means” includes, inter alia– False promise of employment/promotion, and Inducement/“marrying” after suppressing identity (as per the statutory explanation available in published text reproductions).

Courts Typically Examine in “Promise to Marry” Cases

Timing of intention (mens rea)– Was the intent to deceive present from inception?

Conduct consistency– Did the accused behave in a way consistent with genuine intent (family introduction, steps towards marriage, sustained commitment), or was it purely instrumental?

Nature of consent– Was consent obtained because of deception, or was it part of a mutually voluntary relationship?

Evidence of deception- Clear indicators (e.g., already married, concealed identity/status, simultaneous relationships concealed, fabricated commitments) weigh towards “deceit”.

Example from another HC- promise to marry by a person already married may be treated as prima facie deceit (facts-dependent).

Ruling Matters

Balancing protection and misuse- Strengthens safeguards against criminal law being used to settle private disputes, while keeping remedies for genuine exploitation.

Consent jurisprudence- Reinforces that the legal focus is on free consent vs consent vitiated by deception, not on the relationship outcome.

Rule of law and proportionality- Prevents over-criminalisation and preserves the gravity of sexual offences by insisting on proof of deceitful intent.

Source- <https://www.newindianexpress.com/states/karnataka/2026/Jan/22/bns-section-69-shouldnt-be-used-to-criminalise-consensual-sex-says-karnataka-hc>

