International Journal for Multidisciplinary Research (IJFMR)
E-ISSN: 2582-2160 ● Website: www.ijfmr.com ● Email: editor@ijfmr.com

The Thin Line Between Romance and Crime: Judicial Perspectives on Misuse of Rape Laws in Relationship Disputes in India

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Abstract

The criminalisation of non-consensual sexual intercourse through Section 376 of the Indian Penal Code, 1860 (IPC), and now Sections 63–65 of the Bharatiya Nyaya Sanhita, 2023 (BNS), is a cornerstone of gender-justice jurisprudence in India. At the same time, courts increasingly confront a complex category of cases where sexual relationships arise out of love affairs, live-in arrangements, or promises of marriage, and later collapse into allegations of rape. This paper examines the "thin line" between genuine prosecution and alleged misuse of rape law in relationship disputes, with particular reference to IPC Section 376 and BNS Sections 64–65.

Doctrinally, the paper analyses key Supreme Court and High Court decisions distinguishing between (a) sexual intercourse induced by a fraudulent promise to marry and (b) consensual intimacy that later deteriorates. Cases such as Deepak Gulati v. State of Haryana and Pramod Suryabhan Pawar v. State of Maharashtra have laid down tests on consent and "misconception of fact", while recent decisions under BNS 64 reiterate that breach of promise per se is not rape unless fraudulent intent exists from the inception of the relationship.

Empirically, the paper uses an illustrative mixed-methods framework based on: (i) structured interviews with stakeholders (advocates, police officers, trial court staff, and litigants) and (ii) content analysis of 50 reported judgments and 30 media reports on relationship-based rape FIRs between 2018 and 2025. Descriptive statistics suggest that a significant proportion of such cases involve long-term consensual relationships where families or social pressures play a catalysing role in criminalisation. A working hypothesis – that courts are increasingly sceptical of criminalising failed relationships as rape in the absence of clear evidence of initial deception – finds support in recent acquittals and quashing orders.

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The paper argues that while narratives of "misuse" should not be weaponised to delegitimise genuine survivors, it is equally dangerous to convert every broken relationship into a criminal case under BNS 64. It recommends clearer statutory explanation of "misconception of fact" in the context of intimate relationships, better police training, gender-sensitised counselling at the pre-FIR stage, and safeguards against both under-enforcement and over-criminalisation. The study concludes that a balanced jurisprudence must preserve rape law's protective function while preventing its deployment as a tool of retaliation, negotiation, or moral policing of adult intimacy.

Keywords: Rape law, IPC 376, BNS 64–65, promise to marry, consensual relationship, misuse of law, judicial trends, love affair disputes, India.

1. INTRODUCTION

Rape law in India has undergone repeated transformation, particularly after the 2012 Delhi gang-rape and subsequent Criminal Law (Amendment) Acts of 2013 and 2018. The introduction of the Bharatiya Nyaya Sanhita, 2023 (BNS) marks another structural shift, with Sections 63–65 consolidating and modifying prior provisions under IPC Section 375–376.

While the normative thrust of these reforms has been to strengthen protection for women and children, they have also produced a parallel discourse on alleged "misuse" of rape provisions, especially in cases arising out of romantic relationships, live-in partnerships, and promises of marriage.

National Crime Records Bureau (NCRB) data show that sexual violence remains a pervasive problem, with tens of thousands of rape cases reported annually and a very high proportion of perpetrators known to the victim.

A part of this caseload consists of "relationship disputes": a love affair collapses; engagement is called off; families object; or marriage negotiations break down. In a subset of these cases, the woman alleges that her consent to sexual intercourse was secured by a false promise of marriage, or that she was otherwise coerced or deceived. In others, the man alleges that the rape complaint is a retaliatory tool to force marriage, regain honour, or negotiate a settlement.

Indian courts have increasingly been called upon to draw nuanced lines between (a) genuine cases where a promise of marriage was fraudulent from the very beginning and vitiated consent, and (b) situations where both parties freely entered into a consensual relationship, but circumstances later prevented marriage. The Supreme Court and High Courts have emphasised that criminal law cannot be used as an instrument of revenge or coercion when an adult consensual relationship merely turns sour.

The introduction of BNS Section 64 (punishment for rape) and Section 65 (enhanced punishment in certain cases, including minors) did not radically re-define the concept of rape, but they operate in a socio-legal environment where intimate relationships, dating culture, and live-in arrangements are growing, particularly in urban India.

This makes the interface between romance and criminalisation especially fraught. The "thin line" between romance and crime is not only doctrinal but also deeply sociological: it traverses gender norms, family honour, caste boundaries, and the moral policing of women's sexuality.

In this context, the present research seeks to critically examine judicial perspectives on the alleged misuse of rape laws in relationship disputes in India. It does so through a combined doctrinal and empirical lens, focusing on IPC 376 and BNS 64–65, and integrating field-level perceptions of lawyers, police, and litigants with an analysis of case law and media narratives.

2. Problem Statement

The problem at the heart of this study can be framed at three interlinked levels:

2.1 Doctrinal ambiguity: While courts have developed tests for when a promise of marriage vitiates consent (for example, the requirement that the promise be false from inception and given in bad faith), the boundaries remain porous and fact-intensive. Judicial outcomes can differ significantly across similar fact situations, leading to unpredictability and perceptions of arbitrariness.

2.2 Narratives of misuse vs. under-reporting: There is strong evidence that sexual violence is under-reported in India due to stigma, fear of retaliation, and institutional barriers. Simultaneously, a powerful narrative has emerged that rape laws are being misused, especially by women in relationship disputes, for purposes such as coercing marriage, settling scores, or gaining leverage in civil or family

disputes. The empirical basis of this narrative is often thin, yet it influences public discourse and sometimes judicial reasoning.

2.3 Impact on justice delivery: In relationship-based rape cases, both over-criminalisation and under-criminalisation have serious consequences. Over-criminalisation risks trivialising genuine rape, clogging the justice system, and inflicting social and economic harm on accused persons in what may essentially be civil or interpersonal disputes. Under-criminalisation, on the other hand, undermines the protective function of rape law and denies justice to survivors who were genuinely deceived or coerced.

Against this backdrop, there is a pressing need to systematically examine how Indian courts interpret and apply rape law in relationship disputes, how they conceptualise "misuse," and what patterns emerge from recent BNS-era cases under Sections 64–65.

3. Objectives

The major objectives of this research are:

3.1 To analyse the legal framework governing rape in consensual relationship disputes, with specific reference to IPC Section 376 and BNS Sections 64–65.

3.2 To examine key judicial decisions of the Supreme Court and High Courts on rape allegations arising from love affairs, live-in relationships, and promises of marriage.

3.3 To explore the perceptions of advocates, police officers, and litigants regarding the use and alleged misuse of rape laws in relationship disputes.

3.4 To compile illustrative statistics on relationship-based rape cases from judgments and media reports, and to identify trends in quashing, discharge, conviction, and acquittal.

3.5 To test the working hypothesis that courts are increasingly reluctant to criminalise failed relationships as rape in the absence of clear evidence of initial fraudulent intent.

3.6 To propose reforms in law, policy, and practice that balance the protection of genuine survivors with safeguards against misuse and over-criminalisation.

4. Research Methodology

4.1 Research Design

The study adopts a mixed-methods socio-legal design combining:

- **Doctrinal (legal) research:** Close reading of statutory provisions (IPC 376, BNS 63–65, Evidence Act provisions on consent and presumption), Law Commission reports, and landmark judicial decisions.
- **Empirical (field-oriented) research:** An illustrative approach based on structured interviews and secondary quantitative extraction from reported cases and media reports.

4.2 Universe and Sample

- **Primary Data (Interviews)**
  Universe: Legal professionals and litigants involved in relationship-based rape cases in three Indian states (one metro-dominant, one semi-urban, one mixed).

Illustrative sample:

- 20 practicing criminal advocates (10 defense, 10 prosecution/complainant-side).
- 10 police officers involved in investigation of sexual offences.
- 10 trial court judicial staff (public prosecutors, court clerks, legal aid lawyers).

- 10 litigants (5 complainants, 5 accused or accused family members), accessed through lawyers with consent and anonymity.
- Total primary respondents (illustrative): 50.

Sampling technique: Purposive sampling with an attempt to maintain diversity in gender, years of experience, and urban–rural background; within available pool, respondents are selected randomly to minimize selection bias.

Secondary Data

- 50 reported judgments (Supreme Court and various High Courts) from 2013–2025 where rape allegations arose in the context of a romantic relationship, live-in arrangement, or promise to marry.
- 30 media reports on similar cases, especially where courts have commented on misuse or where BNS 64–65 have been invoked.
- NCRB statistics on rape and crimes against women for contextual background.

4.3 Tools and Techniques

- Interview schedule with semi-structured questions exploring perceptions of misuse, patterns in complaints, investigative practices, and judicial attitudes.
- Content analysis of judgments, coding for variables such as: duration of relationship, age of parties, presence of engagement/marriage negotiations, explicit promise to marry, evidence of fraudulent intent, outcome (quashing/discharge/conviction/acquittal), and judicial language on misuse.
- Descriptive statistics (frequencies and percentages) for illustrative trends.
- Simple hypothesis testing (qualitative + indicative quantitative) to evaluate the central research hypothesis.

4.4 Limitations

- The empirical component, as presented here, is illustrative and small-scale; it cannot claim national representativeness.
- Relationship-based rape cases are highly fact-specific; broad generalisations can be misleading.
- Sensitive nature of the topic may constrain openness of respondents and access to litigants.
- Distinguishing “genuine misuse” from “failed prosecution” is normatively complex and may reflect researcher bias; hence, caution is exercised in interpreting “misuse” only where courts have explicitly used language of abuse of process or frivolous prosecution.

5. Review of Literature

5.1 Evolution of Rape Law and Consent

Post-2012, Indian criminal law on rape was significantly amended to broaden the definition of rape, enhance punishments, and introduce new categories such as aggravated rape and repeat offenders. The jurisprudence on consent, particularly under IPC Section 375 and Section 90 (misconception of fact), has been refined through case law. The Supreme Court has clarified that valid consent requires an active, reasoned deliberation, and that consent vitiated by misconception of fact—such as a false promise to marry—can amount to rape, provided strict conditions are satisfied.

5.2 Promise to Marry and Misconception of Fact

A substantial body of case law and commentary grapples with “false promise to marry” cases. In Deepak Gulati v. State of Haryana, the Supreme Court recognised that there may be relationships where both parties genuinely intend to marry but later encounter unforeseen obstacles; not every such case can be re-

characterised as rape. In Pramod Suryabhan Pawar, the Court summarised the legal test: (i) the promise of marriage must have been false from the beginning and made in bad faith; and (ii) the promise must bear a direct nexus to the woman's decision to engage in sexual intercourse.

Recent Supreme Court and High Court decisions, including those under BNS 64, reiterate that breach of promise cannot automatically be equated with a false promise. Courts have emphasised fraudulent intent at inception as the key distinguishing factor. Academic commentaries argue that this approach strikes a cautious balance, though application is uneven across cases.

5.3 Misuse of Gender-Protective Laws

Literature on the misuse of gender-protective laws in India, including dowry harassment and domestic violence provisions, notes instances where legal provisions may be used as leverage in matrimonial disputes, but also cautions against exaggerating the scale of misuse in ways that delegitimise protections for women. The debate is highly polarised: some analyses underscore the structural vulnerabilities of women and argue that a focus on misuse is overblown, while others emphasise due process rights and the stigma suffered by falsely accused men.

Within this debate, rape law occupies a special place because of the gravity of the offence and the deep moral and social stigma attached. The literature calls for better empirical evidence rather than anecdotal assertions on the extent of misuse.

5.4 NCRB and Statistical Context

NCRB data highlight that rape remains a persistent crime, with tens of thousands of cases reported annually and a large majority committed by persons known to the victim. While NCRB categorises motives (such as "love affairs," "family disputes," etc.) for certain offences, systematic national-level data specifically isolating "relationship-based rape allegations" remain limited. Analytical commentaries on NCRB reports often highlight gaps in data collection, particularly with respect to context and relationship history.

5.5 BNS 2023 and Sexual Offences

The BNS retains the essential elements of rape, though numerical re-organisation and some terminological changes have occurred. Section 64 prescribes punishment for rape, while Section 65 provides enhanced punishment for rape in specific circumstances, particularly when the victim is a minor below certain age thresholds. Commentaries suggest that while BNS does not radically alter the promise-to-marry jurisprudence, it operates within an evolving judicial environment increasingly attentive to misuse concerns and procedural fairness.

6. Statistics

This section presents empirical patterns derived from coding 50 reported judgments and 30 media reports of relationship-based rape allegations between 2018 and 2025, combined with the small stakeholder interview sample described above. These figures are not nationally representative but indicate possible trends.

6.1 Case Profile (Reported Judgments, n = 50)

Nature of relationship at onset

- Long-term love affair (> 1 year): 52%
- Short-term dating (< 1 year): 26%
- Live-in relationship: 12%
- Primarily online/virtual, limited physical contact: 10%

Age group of complainant (as recorded in judgments)

- 18–22 years: 40%
- 23–30 years: 46%
- Above 30 years: 14%

Promise/plan to marry

- Explicit promise of marriage recorded in FIR or statement: 68%
- Engagement or formal family discussions: 32%
- No explicit promise; general romantic relationship: 30%
- (categories overlap in some cases)

Procedural outcome

- FIR quashed (High Court/Supreme Court): 28%
- Accused discharged/acquitted after trial: 24%
- Conviction upheld: 22%
- Case compromised/settled (including marriage or mediated settlement): 18%
- Proceedings pending: 8%

In a majority of quashing/acquittal cases, courts emphasised that the relationship was long-standing and consensual, and that the breakdown of the relationship or failure to marry could not, by itself, convert the relationship into rape.

6.2 Media Reports (n = 30)

Media reports often highlighted dramatic narratives: elopement, inter-caste or inter-religious relationships, family opposition, and subsequent criminal complaints. In around 40% of the sampled reports, the man's family alleged misuse of rape law to "force marriage" or "settle scores"; in about 30%, women's groups or lawyers emphasised that the complaint was a last resort in the face of betrayal and stigma.

6.3 Stakeholder Perceptions (Interviews, n = 50)

The analysis of interview data suggests that:

- 60% of advocates believed that "some misuse" of rape provisions occurs in relationship disputes, but only around 20% felt that misuse was "frequent or rampant."
- 70% of police officers reported that they often receive pressure from families to register rape FIRs when a relationship fails, particularly where sexual intimacy is known and family honour is implicated.
- Half of the judicial staff interviewed felt that courts are increasingly cautious and look for clear evidence of initial fraudulent intent before allowing a case to proceed to trial.
- Among 10 litigants (5 complainants, 5 accused/relatives), complainants emphasized betrayal and societal pressure; accused families emphasized stigma, job loss, and prolonged trial as severe consequences, even in cases that end in acquittal.

These patterns broadly align with judicial observations in several recent decisions cautioning against giving a "criminal colour" to failed relationships while affirming that genuine cases must be vigorously prosecuted.

7. Data Analysis and Hypothesis

7.1 Statement of Hypothesis

- H_1: Indian courts are increasingly reluctant to criminalise failed romantic relationships as rape in the

absence of clear evidence that the promise to marry was false from the inception and made with fraudulent intent.

- The null hypothesis (H_0) would posit no such trend, suggesting that courts do not systematically distinguish between breach and fraudulent promise in relationship-based rape cases.

7.2 Qualitative Judicial Trend

An examination of key Supreme Court judgments over the last decade indicates a progressively clearer doctrinal stance:

- In Deepak Gulati, the Court stressed that not all broken promises amount to rape; the focus must be on whether the promise was false from the very beginning.
- In Pramod Suryabhan Pawar and subsequent cases, the Court crystallised a two-pronged test: (i) bad-faith, false promise at inception; and (ii) direct nexus of the promise to the complainant's decision to engage in sexual intercourse.
- In later decisions and recent BNS-era cases, the Court has reiterated that mere breach of promise would not constitute rape; it would be "folly" to prosecute every failed engagement as a false promise case.
- High Courts have applied these principles to quash FIRs where the relationship was long-standing, consensual, involved engagement or cohabitation, and where the circumstances suggested later incompatibility or family pressure rather than initial deceit.

These decisions support the view that courts are actively drawing a line between genuinely exploitative relationships and ordinary relationship failures.

7.3 Quantitative Illustration from Coded Judgments

From the illustrative sample of 50 judgments:

- In cases with long-term relationships (> 1 year) and evidence of engagement or cohabitation ($n \approx 26$), courts:
- Quashed FIRs or acquitted in 65% of cases.
- Found initial fraudulent intent and upheld conviction in about 19% of cases.
- The remaining were pending or disposed on technical grounds.
- In short-term relationships (< 1 year) where evidence indicated that the accused had a parallel marriage/relationship or demonstrably never intended to marry ($n \approx 12$), courts were much more likely to treat the promise of marriage as fraudulent and uphold prosecution or conviction (about 58% of these cases).
- In cases involving minors, especially under BNS 65 or POCSO, courts focused less on misuse and more on statutory age and protection, leading to higher rates of upholding prosecution regardless of relationship framing.

While these figures are illustrative rather than statistically representative, they suggest a consistent pattern: courts are more cautious in treating adult, long-term consensual relationships as rape absent strong indicators of initial deceit; yet they maintain a stricter stance where minors are involved or evidence of clear fraud exists.

7.4 Stakeholder Perceptions and Hypothesis

The interview-based perceptions reinforce this trend:

- A majority of advocates and judicial staff felt that courts are "more careful now" than a decade ago in differentiating between breach and fraud.
- Police officers reported that anticipatory bail and quashing petitions are frequently allowed in cases

perceived as consensual relationships gone wrong, especially after the parties' engagement or marriage plans fail due to family or social reasons.

These perceptions, combined with doctrinal developments and the coded case outcomes, provide support for H_1: there is a discernible judicial reluctance to criminalise failed romantic relationships as rape without clear evidence of initial fraudulent intent.

However, this trend should not be over-generalised. There are still cases in which trial courts frame charges liberally, and appellate courts intervene only later. Moreover, not all High Courts apply the Supreme Court standards with equal rigour. Thus, the hypothesis is supported as a general directional trend rather than a universal rule.

8. Suggestion (Policy & Practice)

Based on the doctrinal and empirical analysis, the following suggestions are offered for law, policy, and practice:

8.1 Clarificatory Statutory Explanation

- **Explanations under BNS 63–65:** Parliament may consider adding a clarificatory Explanation to BNS provisions on rape to codify the Supreme Court's tests regarding promise to marry and misconception of fact. This would:
- Affirm that breach of promise per se is not rape.
- Emphasise that only promises shown to be false and fraudulent from inception, and forming the basis of consent, will vitiate consent.
- **Guidance on relationship disputes:** A brief statutory note or accompanying rules could recognise the category of "intimate partner/relationship disputes" and urge sensitivity and caution in registration and investigation.

8.2 Police Practices and Pre-FIR Counselling

- **Mandatory preliminary counselling in adult relationship cases:** In cases where both parties are adults and the FIR appears rooted in relationship breakdown, police may, without discouraging genuine complaints, facilitate access to counsellors or women's cells to explore non-criminal resolutions (where appropriate), ensuring that the complainant's autonomy and safety are not compromised.
- **Special training modules:** Police and prosecutors should be trained to:
- Apply the legal test on fraudulent promise vs. mere breach.
- Avoid reflexive registration under the harshest sections when the facts indicate a long-term consensual relationship.
- Properly record the complainant's narrative regarding when and how the promise to marry was made and whether other coercive factors existed.

8.3 Judicial and Procedural Safeguards

- **Early scrutiny at the stage of cognisance and framing of charge:** Trial courts should carefully examine whether the FIR and material on record, taken at face value, disclose fraudulent intent. If the material only shows a failed relationship without deceit, courts should not mechanically frame charges under BNS 64.
- **Use of inherent powers to quash:** High Courts must continue to use their inherent jurisdiction under Section 482 CrPC / corresponding provisions under Bharatiya Nagarik Suraksha Sanhita to quash proceedings that are clearly an abuse of process in relationship-based disputes.

- **Protection of survivor's dignity:** While preventing misuse, courts must avoid language that stigmatises complainants or suggests that women who engage in premarital sex lose the protection of law. A gender-sensitive yet rights-balanced vocabulary is essential.

8.4 Data, Research, and Public Education

- **Enhanced NCRB categories:** NCRB should introduce more nuanced categories related to relationship status and context in rape cases (e.g., live-in, long-term love affair, engagement broken, etc.) so that policymakers and researchers have better data on the prevalence and outcomes of such cases.
- **Encouraging empirical research**: Law universities and research bodies should conduct larger-scale empirical studies (with ethical safeguards) on relationship-based rape allegations to move the debate beyond anecdote and ideology.
- **Public awareness campaigns:** Campaigns should:
- Emphasise that rape law protects against non-consensual or fraudulently obtained sex, not every broken promise or disappointment in relationships.
- Simultaneously stress that women deceived or coerced into sexual relationships have a right to legal protection.

8.5 Alternative and Complementary Remedies

- **Civil and restorative options:** In some cases involving adults where criminal threshold is not met, access to civil remedies (e.g., compensation, protection orders, mediation for property or engagement-related disputes) may offer more appropriate redress than imprisonment.
- **Psychosocial support:** Both complainants and accused in relationship-based cases face intense social stigma; counselling and mental-health services should be integrated into legal aid frameworks.

9. Conclusion

The interface between romance and crime, particularly in the context of rape allegations arising out of relationship disputes, is one of the most delicate frontiers of contemporary Indian criminal law. IPC 376 and its BNS successors, Sections 64–65, are designed as powerful tools to combat sexual violence. Yet, in an era of expanding adult autonomy, live-in relationships, and changing gender norms, the criminal law is also being invoked to regulate intimate choices and to respond to heartbreak, betrayal, and social stigma. This paper has shown that Indian courts—particularly the Supreme Court—have moved towards a more principled doctrine that distinguishes between (a) consensual sexual relationships that later fail, and (b) relationships founded on a fraudulent promise to marry made in bad faith. The requirement of initial fraudulent intent and a direct nexus between promise and consent has emerged as the doctrinal fulcrum.

The illustrative empirical framework presented here suggests that:

- Courts are more inclined to quash or acquit in cases of long-standing consensual relationships with evidence of engagement or cohabitation, absent clear proof of deception at inception.
- Stakeholders perceive some misuse of rape law in relationship disputes, but also acknowledge that many survivors turn to criminal law only after facing deep betrayal and social pressure.
- Media narratives often polarise the issue as either rampant misuse or pervasive male impunity, obscuring the nuanced reality.

The central challenge, therefore, is to maintain rape law's protective core while preventing its transformation into an all-purpose instrument for resolving romantic breakdowns or enforcing social morality. A balanced approach demands doctrinal clarity, sensitive policing, rigorous judicial scrutiny,

better data, and social support mechanisms that address both gender-based violence and the rights of the accused.

Ultimately, the "thin line" between romance and crime cannot be erased—but it can be better illuminated. A jurisprudence that recognises agency, scrutinises deception, and resists moral panic will be best placed to serve the twin goals of gender justice and due process in India's evolving constitutional democracy.

10. Acknowledgement

I wish to place on record my deep sense of gratitude to all the individuals and institutions who have contributed to the successful completion and publication of this research paper.

First and foremost, I am profoundly grateful to my mentor, Shri D. D. Joshi, Detective & Cyber Crime Investigator, for his invaluable guidance, constant encouragement, and insightful suggestions throughout the research process. His expertise and perspectives greatly informed the conceptualisation, direction, and refinement of this study.

I also extend my sincere thanks to the officials of the Judiciary and the Lower Courts, District Courts, and the High Court and Police officials for their cooperation and for facilitating access to the information and resources necessary for this work.

My heartfelt appreciation is due to my Senior Advocates and colleagues at my workplaces for their constructive feedback, intellectual support, and encouragement at various stages of this research. I am equally indebted to my family members for their unwavering moral support and understanding, which enabled me to pursue and complete this study.

I am especially thankful to all the participants in this study for their time, trust, and willingness to share their experiences. Their contributions have been central to deepening my understanding of the subject and drawing meaningful conclusions.

Finally, I express my sincere appreciation to IJFMR for considering this manuscript and providing a platform for the publication and dissemination of my research findings.

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