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**LEGAL CHALLENGES AND JUDICIAL RESPONSES A  
COMPARATIVE ANALYSIS OF LEGAL FRAMEWORKS:  
FALSE PROMISE OF MARRIAGE PROVISIONS IN INDIAN  
PENAL CODE AND BHARATIYA NYAYA SANHITA**

**AUTHORED BY - NAZIYA SALIM KHAN**

**Abstract :**

The legal landscape surrounding the false promise of marriage provisions within the Indian legal system has been a subject of considerable scrutiny and debate. This research paper undertakes a comprehensive comparative analysis of the legal frameworks governing such provisions in the Indian Penal Code (IPC) and Bharatiya Nyaya Sanhita (BNS), shedding light on their historical evolution, legislative intent, judicial interpretations, and practical implications. The notion of a promise of marriage, followed by its breach, has long been recognized as a grave social injustice, particularly in patriarchal societies where a woman's honor and future prospects are intricately tied to her marital status. To address such instances of deceit and betrayal, both the IPC and BNS have provisions aimed at penalizing individuals who make false promises of marriage with the intention to deceive and exploit. By examining the historical context in which these provisions were enacted and the legislative intent behind them, this paper seeks to elucidate the underlying principles and objectives guiding their implementation. It explores how societal attitudes towards marriage, gender roles, and the protection of vulnerable individuals have influenced the formulation and interpretation of these legal provisions over time. Furthermore, through a meticulous analysis of relevant case law and judicial decisions, this study delves into the judicial responses to cases involving false promises of marriage, highlighting the various legal doctrines, principles, and precedents that have shaped the courts' approach to adjudicating such matters. It explores the nuances and complexities involved in establishing the elements of deceit, intention, and reliance in proving the commission of the offense, and examines the challenges faced by both prosecutors and defendants in navigating these legal intricacies.

Moreover, the paper addresses the socio-legal implications of the false promise of marriage provisions, considering their impact on victims, perpetrators, and broader societal perceptions of justice and accountability. It discusses the role of legal aid, support services, and alternative dispute resolution mechanisms in addressing the needs of affected parties and facilitating access

to justice in cases of matrimonial fraud. In conclusion, this comparative analysis offers valuable insights for legal practitioners, policymakers, and scholars seeking to understand and address the legal challenges surrounding false promises of marriage within the Indian legal system. By critically evaluating the strengths, weaknesses, and disparities between the IPC and BNS frameworks, this paper aims to contribute to ongoing discussions on law reform, judicial interpretation, and social justice in the context of matrimonial disputes.

## ***Introduction***

The Indian Penal Code (IPC) was created by looking at how laws worked in Britain. But instead of helping people in India, it was made to control them. Over time, many parts of these laws have become outdated and don't really fit with how our society has changed. So, the Indian government decided it's time to make new laws that would better protect everyone's rights. They want these laws to be fairer and more modern. To do this, they introduced three new bills in the Lok Sabha. These bills are called the Bharatiya Nyaya Sanhita Bill 2023, Bharatiya Nagarika Suraksha Sanhita Bill 2023, and Bharatiya Sakshya Bill 2023. The government says the old laws were made to keep British rule strong and punish people, not to give them justice. Now, they want to change that. They want the new laws to be about giving everyone a fair chance and making sure nobody gets treated unfairly. So, they're working on these new bills to make things better for everyone in India. The Indian Penal Code (IPC) is essentially a set of rules and regulations that dictate what people in India can and cannot do. However, the origins of this code trace back to a time when India was under British colonial rule. During that period, the IPC was formulated not so much to protect the rights and interests of Indian citizens but rather to exert control over them. Fast forward to today, and India has undergone significant societal, cultural, and economic transformations. As a result, many of the laws outlined in the IPC have become outdated and no longer reflect the realities of contemporary Indian life. Recognizing the need for legal reform to ensure fairness and justice for all, the Indian government has taken steps to overhaul these outdated laws. This effort includes the introduction of three new bills in the Lok Sabha: the Bharatiya Nyaya Sanhita Bill 2023, Bharatiya Nagarika Suraksha Sanhita Bill 2023, and Bharatiya Sakshya Bill 2023. These bills aim to modernize and streamline India's legal framework, replacing archaic laws with ones that are more equitable and reflective of the needs of Indian society today. The government acknowledges that the old laws were crafted with the intention of maintaining British control and punishing dissent rather than upholding justice. Now, however, there is a commitment to rectifying this imbalance and ensuring that the legal system serves the interests of all Indian citizens fairly. Through the introduction of these new bills, the

government hopes to usher in a new era of legal governance characterized by transparency, accountability, and respect for human rights. In the subsequent discussion, we will delve deeper into the specifics of one of these bills, the Bharatiya Nyaya Sanhita (BNS) of 2023, to better understand its potential implications and benefits for Indian society.<sup>1</sup>

### ***Need of Bharatiya Nyaya Sanhita***

The need for the Bharatiya Nyaya Sanhita (BNS) arises from the long-standing call for a major overhaul of India's criminal justice system. The current laws, which date back to the colonial era, no longer adequately address the present dynamics and aspirations of Indian society. Various committees, such as the Law Commission of India, Bezbaruah Committee, Viswanathan Committee, Malimath Committee, and Madhav Menon Committee, have consistently advocated for reforms to address this issue. Confronting the colonial legacy is a key focus. The Union Home Minister has emphasized the importance of removing colonial influences deeply ingrained in laws like the Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and the Evidence Act. The goal is to replace these historical influences with a legal framework that is distinctly Indian and better reflects current needs and values. Another crucial aspect of reform involves incorporating decisions made by the Supreme Court into the legal system. For example, the removal of Section 377, which criminalized homosexuality, illustrates how legal reforms respond to changing societal attitudes and judicial interpretations. This ensures that outdated or discriminatory provisions are corrected. Additionally, recognizing the importance of adapting to evolving societal norms, there is a push to introduce gender neutrality in specific provisions of the IPC. This adjustment is essential for ensuring that the legal system promotes contemporary values of gender equality. By eliminating gender-specific biases, the aim is to create a legal framework that mirrors the diverse and evolving nature of Indian society.<sup>2</sup>

### ***Provision for false promise to marriage under IPC ( Indian penal code )***

In the case of Ajeet v. State of Uttar Pradesh, Justices Abhay S. Oka and Pankaj Mithal ruled that the claim of a false promise of marriage leading to a physical relationship lacks merit, as the relationship ultimately resulted in marriage solemnization. The circumstances surrounding the case of Ajeet v. State of Uttar Pradesh unfold a narrative of intertwined relationships, promises, and alleged deceit. Within this context, the victim, identified as the daughter of the third

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<sup>1</sup> <https://www.freelaw.in/legalarticles/Bharatiya-Nyaya-Sanhita-2023>

<sup>2</sup> <https://www.joshtalks.com/upsc/study-material/Bharatiya-nyaya-sanhita>

respondent, was pursuing her studies in banking in Lucknow, at the mature age of 25. Meanwhile, the appellant, purportedly engaged in running IIT coaching classes in Delhi, crossed paths with the victim, leading to the blossoming of affection between them. Amidst the backdrop of their developing love, the appellant purportedly made assurances of marriage to the victim. However, when the third respondent, presumably acting on behalf of the victim, approached the appellant's father and brother with the proposal of marriage, it is reported that they rebuffed the notion. In response to this apparent rejection, under what is described as the persistent pressure from the victim, the appellant sought to solidify their relationship by arranging for a certificate of marriage from Arya Samaj Mandir. This act, as alleged by the third respondent, was perceived as an attempt to further bind the victim to the appellant through legal documentation. The crux of the matter lies in the accusation leveled by the third respondent, asserting that the appellant engaged in a physical relationship with the victim under the guise of a false promise of marriage. It is contended that the purported marriage certificate was obtained as a coercive tactic, designed to manipulate and pressure the victim into compliance. However, the narrative takes a somber turn when it is revealed that the appellant, after leaving the victim at her residence on April 22, 2015, failed to return to reclaim her. This abandonment seemingly adds weight to the allegations of deception and betrayal. Subsequently, in an attempt to seek recourse and clear his name, the appellant turned to the High Court of Allahabad, seeking to quash the allegations against him. Nevertheless, despite his efforts, the High Court declined to intervene, leaving the accusations unresolved and casting a shadow over the appellant's actions. Thus, the case encapsulates a complex web of emotions, obligations, and legal intricacies, raising pertinent questions about the nature of consent, promises made, and the consequences of actions taken within the realm of intimate relationships.<sup>3</sup>

The Indian Penal Code of 1860 does not contain a specific provision that delineates the offense of engaging in sexual intercourse through deceitful means. Rather, this legal framework addresses such conduct through a combined application of two key provisions: Section 375, which outlines the elements of rape, and Section 90, which pertains to situations where consent is granted under circumstances involving fear or misconceptions. Despite the absence of a singular definition for this particular offense, the IPC's comprehensive approach ensures that instances of sexual misconduct involving deceit or coercion are appropriately addressed within the legal framework of India. In the case of *Mandar Deepak Pawar v. State of Maharashtra* (2022), the Supreme Court distinguished between two crucial concepts pertaining to promises of marriage.

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<sup>3</sup> <https://www.drishtijudiciary.com/current-affairs/position-of-false-promise-to-marriage>

Firstly, a **false promise to marriage** entails a deliberate intent by the promisor to deceive, knowing full well that the promise will not be upheld. This type of promise is made with the preconceived notion that it will not be honored. On the other hand, a breach of promise involves a sincere intention initially, where the promisor genuinely intends to fulfill the commitment made. However, circumstances may arise that prevent the promise from being fulfilled despite the initial good faith. For instance, if a man can demonstrate that he genuinely intended to marry the woman before engaging in a sexual relationship with her, but later encounters insurmountable obstacles preventing the marriage, such as unforeseen legal or personal impediments, then it falls under the category of a breach of promise. This distinction is crucial in legal matters concerning matrimonial obligations and the consequences thereof.<sup>4</sup>

### ***What is section 69 of BNS ( Bharatiya Nyaya Sanhita)***<sup>5</sup>

“Whoever, by deceitful means or making by promise to marry to a woman without any intention of fulfilling the same, and has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.”<sup>6</sup>

“Explanation.— “deceitful means” shall include the false promise of employment<sup>7</sup> or Promotion, inducement or marrying after suppressing identity ”<sup>8</sup>

### ***Section 69 of BNS - Sexual Intercourse on False Promise of Marriage***

Section 69 of the BNS, found in the part about crimes against women and children, sets out two types of wrongdoing related to sex. It talks about having sex through deceitful methods and making a fake promise to marry someone.

Deceitful Methods: The initial offense consists of using dishonest tactics, like lying about a job, a promotion, or marriage, to convince someone to have sex. If someone uses these methods, they could be punished with up to ten years in prison.

False Marriage Promise: The second offense involves lying about marrying a woman, knowing you won't keep that promise, just to get her to agree to have sex with you. This wrongdoing could also lead to up to ten years in prison.<sup>9</sup>

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<sup>4</sup> <https://www.drishtijudiciary.com/current-affairs/position-of-false-promise-to-marriage>

<sup>5</sup> <https://advocatesuresh.in/section-69-bns/>

<sup>6</sup> <https://advocatesuresh.in/section-69-bns/>

<sup>7</sup> <https://www.linkedin.com/pulse/navigating-section-69-bns-challenges-solutions-addressing-ishan-gill-efz7c>

<sup>8</sup> [https://advocatesuresh.in/section-69-bns/#google\\_vignette](https://advocatesuresh.in/section-69-bns/#google_vignette)

<sup>9</sup> <https://www.civildaily.com/news/nyaya-sanhita-false-promise-of-marriage/#:~:text=False%20Promise%20to%20Marry%3A%20The,to%20ten%20years%20of%20imprisonment>

### ***Challenges of section 69 of BNS***

It's hard to prove someone was being dishonest. People who are accused of deceit or making false promises may find it tough to prove their innocence because accusers might take advantage of this difficulty and make untrue claims, which makes it hard for the accused person to show they did nothing wrong.

Legal processes can become more complicated and unfair when evidence is altered or made up, which can result in unjust decisions.<sup>10</sup>

The contention arises from the perceived unconstitutional nature of the law, as it infringes upon the principles enshrined in Article 14 and Article 15 of the Indian Constitution. Article 14 guarantees every individual equality before the law and equal protection of the laws within the territory of India, ensuring that no one is unfairly discriminated against or deprived of their rights. Similarly, Article 15 prohibits discrimination solely on the grounds of religion, race, caste, gender, or place of birth. However, the law in question operates under the presumption that only men possess the agency to engage in deceitful practices, such as making false promises of marriage, job opportunities, or promotions to induce sexual relations. Consequently, it establishes a double standard where men are held accountable for renegeing on such promises in consensual sexual relationships, while women are exempt from similar scrutiny. Furthermore, the law fails to acknowledge the possibility of women wielding positions of authority or power, enabling them to manipulate men into sexual activities through false promises of career advancements. This inherent gender bias perpetuates discriminatory practices and prejudices, undermining the foundational principles of equality and fairness within the legal framework. As such, the law's discriminatory nature not only violates constitutional provisions but also perpetuates systemic injustices against certain genders, warranting a critical examination and potential revision to ensure equitable treatment for all individuals under the law.

The legislation's Implication that adult women lack agency over decisions concerning their own bodies and dignity within sexual contexts is deeply concerning. By suggesting that women can be influenced or manipulated into consenting to sexual activity solely through promises of marriage, job opportunities, or promotions, the law perpetuates outdated and harmful stereotypes.

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<sup>10</sup> <https://www.linkedin.com/pulse/navigating-section-69-bns-challenges-solutions-addressing-ishank-gill-efz7c#:~:text=Section%2069%20of%20BNS%20provides,description%20for%20a%20term%20which>

This perspective not only undermines the autonomy and independence of women but also dismisses the importance of their will and consent in matters of sexual engagement. Furthermore, by failing to recognize women as capable decision-makers in sexual encounters, the law overlooks the complex dynamics of consent and perpetuates a patriarchal understanding of relationships and sexuality. It is crucial to acknowledge that individuals, regardless of gender, have the right to make informed choices about their bodies and sexual experiences. Therefore, it is imperative to challenge and reconsider the provisions of the law to ensure that it aligns with principles of gender equality, autonomy, and consent. The legislation's failure to delineate a specific timeframe within which a sexual relationship between a man and a woman could be deemed as constituting a false promise of marriage is a significant oversight. This lack of clarity creates a wide-ranging scope wherein various types of relationships, ranging from long-term affairs to casual premarital engagements, could potentially be subject to accusations under this provision. Moreover, the inherent nature of the law being both cognizable and non-bailable adds another layer of complexity to the situation. Under such circumstances, a mere allegation from the woman, without any corroborating evidence, can swiftly lead to the man's arrest, reflecting a concerning imbalance in the legal process. The law's reliance on the statement of the woman as sufficient evidence to initiate legal proceedings further accentuates the potential for misuse and miscarriage of justice. Despite these glaring vulnerabilities, the legislation notably lacks any safeguards or provisions aimed at preventing such misuse.

Additionally, the severity of the prescribed punishment, which includes a lengthy prison sentence of up to 10 years and a substantial fine, exacerbates the stakes for those accused. Consequently, individuals find themselves at risk of immediate arrest and prosecution, irrespective of whether a promise was actually made or if there exists any tangible evidence to substantiate such claims. This prevailing scenario draws stark parallels to existing cases involving allegations of rape based on purported false promises of marriage, wherein individuals have been detained despite possessing compelling evidence refuting the alleged promise. Such instances underscore the pressing need for comprehensive reforms within the legal framework to address these inherent flaws and uphold the principles of fairness, equity, and due process for all parties involved.<sup>11</sup>

### ***Conclusion***

The misuse of IPC 498A has been seen in many court cases, from high courts to the Supreme

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<sup>11</sup> <https://www.change.org/p/repeal-section-69-of-bharatiya-nyaya-sanhita-2023>

Court of India. This misuse has harmed countless families, leading to unfair arrests of many men and women. The law has been wrongly used when marriages break down, even if the husband or his family did nothing wrong. This causes a lot of problems for everyone involved. We need to make sure the law is used properly to protect people from unfair treatment. Section 69 BNS can be wrongly used when a relationship ends badly, putting any man in a tough spot just because he decided to break up. This part of the law can become a problem when someone wants to get back at their ex-partner. The law is kind of unclear, so people can use it for their own reasons, even if they're not right. This means innocent guys could end up in big trouble because of false accusations. To fix this, we need to make the law clearer and put in rules to stop it from being misused. We also need to make sure that when there are problems in relationships, the law is used fairly and doesn't cause more harm than good. The law lacks any safeguards to protect innocent people from enduring lengthy criminal trials for actions they didn't commit. Since there's no clear timeframe outlined in the law regarding promises made during sexual relationships, medical evidence won't matter much in these cases. This turns into a situation where it's one person's word against the other's, often with the accuser's statement carrying more weight than any evidence the accused might have.<sup>12</sup>

### ***Suggestions***

The Issue of false promises of marriage, particularly concerning women, presents a complex legal and societal challenge in India. While the Bharatiya Nyaya Sanhita (BNS) has taken a commendable step forward by explicitly defining this offense in Section 69, concerns persist regarding the potential for misuse and the challenges faced by innocent men falsely accused under such provisions. On the other hand, the absence of a specific provision in the Indian Penal Code (IPC) offers a broader approach that may benefit all victims, regardless of gender. However, the lack of clarity and explicit recognition of false promises of marriage in the IPC also raises concerns about the adequacy of legal protection for victims. In addressing these concerns, it is essential to strike a balance between protecting victims and safeguarding the rights of the accused. One key consideration is the need for robust legal safeguards and procedural mechanisms to prevent the misuse of false promise of marriage provisions. This may include stringent evidentiary standards, judicial oversight, and penalties for those found guilty of making false accusations. Additionally, there is a need for greater awareness and education among the public about the legal consequences of making false allegations and the importance of respecting due

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<sup>12</sup> <https://www.change.org/p/repeal-section-69-of-bharatiya-nyaya-sanhita-2023>

process rights. Moreover, efforts should be directed towards enhancing access to legal aid and support services for both victims and the accused. Providing resources for legal assistance, counseling, and mediation can help individuals navigate the complexities of matrimonial disputes and ensure fair and just outcomes. Furthermore, there is a pressing need for comprehensive legal reforms to address the broader issue of gender-based violence and discrimination in India. This includes initiatives to challenge patriarchal norms, promote gender equality, and strengthen legal protections for women against all forms of exploitation and abuse. While the inclusion of specific provisions addressing false promises of marriage in the BNS is a positive step towards protecting women's rights, it is crucial to balance this with safeguards to prevent misuse and ensure fairness for all parties involved. This requires a multifaceted approach that combines legal reforms, public awareness campaigns, and support services to address the root causes of gender-based violence and promote a culture of respect, equality, and justice for all. Only through collective efforts can we create a society where all individuals, regardless of gender, can live free from the fear of exploitation and injustice.

