
THE MARRIAGE OBSESSION: THE NEED FOR A BROADER INTERPRETATION OF SECTION 69 OF THE BHARATIYA NYAYA SANHITA, 2023

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ABSTRACT

Section 69 of the Bharatiya Nyaya Sanhita, 2023 was introduced to address situations where consent to sexual intercourse is obtained through certain forms of deceit. Although the provision covers different kinds of deception, such as false promises of employment, promotion, marriage, or concealment of identity, discussions surrounding the section have largely focused on cases involving false promises of marriage. As a result, the other forms of deceptions mentioned in the provision have received comparatively lesser attention.

This paper argues that treating Section 69 primarily as a provision dealing with marriage-related deception narrows its scope and limits the protection that the legislature intended it to have. The wording of the section suggests that Parliament intended to recognise multiple forms of dishonest inducement capable of influencing consent, rather than giving special importance to any one category. A narrow interpretation may therefore overlook victims who have been induced into sexual relations through other deceptive means expressly covered by the law. The paper also focuses on a broader and more balanced understanding of Section 69. Such an approach would better reflect legislative intent and ensure that the provision remains relevant to the various forms of deceit it was designed to address.

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Introduction

If consent is given on the basis of a lie, was it ever truly given? This question is neither new nor simple. Courts have long struggled with determining when deception becomes serious enough to affect the validity of consent. The transition from the Indian Penal Code to the Bharatiya Nyaya Sanhita was not merely a matter of changing the names and numbers of criminal provisions. It also introduced new offences and provided new ways of addressing certain forms of conduct. Section 69 is one such example. It attempts to address situations where consent may exist in form but is alleged to have been influenced by deception.² Questions surrounding consent, therefore, cannot always be reduced to whether a person said yes or no. In some situations, the more important question is the circumstances in which that consent was given and whether the person would have made the same decision if the truth had been known from the beginning. This has created an uncertain area within criminal law, particularly where deception and sexual consent overlap.³ Section 69 of the Bharatiya Nyaya Sanhita seeks to criminalise certain forms of sexual intercourse obtained through deception. The provision states that, *"Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, 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."*⁴ The provision therefore attempts to move the discussion beyond the simple question of whether consent was present and towards the circumstances in which that consent was obtained. It recognises that consent obtained through deception may raise concerns that are different from those arising in cases involving force or coercion.

Importantly, the language of the provision is not limited to promises of marriage. The Explanation also refers to other forms of deceit, including inducement or false promises relating to employment or promotion and marrying by suppressing one's identity.⁵ The inclusion of these categories suggests that the legislature intended to address a wider range of deceptive conduct rather than a single type of situation involving a false promise of marriage. The provision therefore raises a broader question about the role of deception in influencing a

² Alan Wertheimer, *Consent to Sexual Relations*, 2 J. Soc. Phil. 89, 89–104 (2000).

³ Peter Westen, *Some Common Confusions About Consent in Rape Cases*, 2 Ohio St. J. Crim. L. 333, 333–59 (2004).

⁴ Bharatiya Nyaya Sanhita, No. 45 of 2023, 69 (India).

⁵ Martha C. Nussbaum, *Objectification*, 24 Phil. & Pub. Affs. 249, (1995).

person's decision to engage in sexual intercourse.

Section 69 also represents a significant departure from the legal position that existed under the Indian Penal Code. Before the enactment of the BNS, cases involving sexual intercourse allegedly induced by a false promise of marriage were generally considered through the existing provisions relating to rape and consent. Section 375 of the IPC defined the offence of rape, while Section 90 dealt with circumstances in which consent was not considered valid because it was given under a misconception of fact.⁶ Judicial decisions subsequently developed principles concerning when a false promise of marriage could be treated as deception that affected consent. In particular, the courts have emphasised that a promise to marry would not automatically invalidate consent merely because the relationship later failed or the marriage did not take place.⁷ The crucial question has generally been whether the promise was false from the beginning and whether the deception had a direct connection with the complainant's decision to engage in sexual intercourse.

However, despite marriage constituting only one part of the provision, it has come to dominate legal commentary, media reporting and public debate to such an extent that the remaining categories of deception have often been treated as secondary concerns. This is understandable to some extent because Indian courts have spent many years dealing with cases involving promises of marriage under the earlier legal framework. The familiarity of these cases has naturally influenced the early understanding of Section 69. Yet, the prominence of this single category has also had the unintended effect of pushing other forms of deception to the margins of legal discussion.⁸ The title of this paper, "*The Marriage Obsession*," refers to precisely this disproportionate focus on marriage-related deception and the resulting neglect of the wider scope of the provision. The purpose of this paper is not to suggest that cases involving false promises of marriage are unimportant or do not deserve legal attention. Rather, it questions whether one form of deception has come to dominate the discussion to such an extent that the other forms expressly recognised under Section 69 have received comparatively little attention. The inclusion of employment, career advancement and suppression of identity within the provision raises important questions that deserve independent examination. These categories may involve different forms of deception and may affect consent in ways that are not identical

⁶ Ratanlal & Dhirajlal, *The Indian Penal Code* 213–24 (Y.V. Chandrachud ed., 35th ed. 2022).

⁷ *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 SCC 608, (India).

⁸ Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts* 1–20 (HarperCollins India 2019).

to cases involving promises of marriage.⁹ At first glance, Section 69 appears to provide protection against deceptive conduct that takes advantage of a person's trust or vulnerability. However, a closer examination also raises concerns about the uncertainty and potential breadth of the provision. The challenge, therefore, is to interpret Section 69 in a way that gives proper meaning to all the forms of deception recognised by the legislature without treating every broken promise or dishonest statement as a criminal offence.¹⁰

This paper argues that the discussion surrounding Section 69 must move beyond its dominant focus on false promises of marriage. The other forms of "deceitful means" expressly recognised by the provision should receive equal judicial and academic attention. Through an examination of the statutory language, judicial decisions and the broader purpose of the provision, this paper seeks to explore whether the full scope of Section 69 has been adequately understood or whether the continued focus on marriage has resulted in important dimensions of the provision being overlooked.

Overview of the legal texts of section 69

Section 69 of the Bharatiya Nyaya Sanhita, 2023, which criminalises sexual intercourse with a woman on the basis of her consent obtained by deception, was not a crime under the Indian Penal Code. The law states that individuals who engage in sexual relations with a woman under deceitful claims of marriage - lacking a sincere intention to honour that commitment - may be subject to up to ten years in prison and fines, as long as the act does not constitute rape. Notably, this section clarifies that such acts, while illegal, do not constitute rape. The Explanation further broadens the section by indicating that "deceitful means" could involve making false promises related to employment, promotions, or concealing one's identity,¹¹ potentially leading to sexual intercourse under false pretences.¹² While the purpose of this law is to protect women from such harm, it also brings serious challenges when applied in real life. The toughest part is proving what was in the accused person's mind at the time.¹³ Parliament has responded to a long-standing uncertainty in the law by recognising that consent to sexual activity may not be freely given when obtained by deception, even when it is not contemplated by the specific

⁹ Douglas Husak, *Overcriminalization: The Limits of the Criminal Law* 3–24 (Oxford Univ. Press 2007).

¹⁰ Aharon Barak, *Purposive Interpretation in Law* 87–102 (Princeton Univ. Press 2005).

¹¹ Md. Imran Wahab, *Analysing the Vagueness and Shortcomings of Section 69 of the Bharatiya Nyaya Sanhita (BNS), 2023*, Int'l J. for Multidisciplinary Rsch. (2024).

¹² Section 69 BNS: Sexual Intercourse by Deceitful Means, *Textcourtstbook* (2026).

¹³ Sumesh Bhagwati, *The Problem of Proving Deceitful Intent in Sexual Offences Under Section 69 BNS*, Int'l J. Multidisciplinary Res. (IJFMR) (2025).

provisions of rape law. Section 69 thus seeks to address a lacuna in the Indian law.¹⁴ A closer reading of the provision, however, reveals that it goes far beyond what many people have understood it to say. Marriage has dominated the public and academic discourse on Section 69, but a reading of the text suggests that Parliament was more concerned with other kinds of promises and deceptions. The provision goes beyond false promises of marriage to also include other dishonest statements, such as assurances of employment, advancement in one's career, and even a failure to disclose one's true identity before marriage. Even more significantly, the explanation uses the phrase "includes" rather than "means," which suggests that Parliament was not limiting the definition of deceptive means to false promises of marriage. In other words, Parliament used the phrase "deceitful means" to cover a wide range of dishonest statements and acts, not just broken promises of marriage.

This paper contends that the full breadth of Section 69 has not been fully grasped. Even though the provision goes beyond marriage, legal discussions have been fixated on the idea of promises of marriage. This paper argues that a more comprehensive understanding of the law is required, and it attempts to contribute to that goal. By looking at the text of Section 69, as well as court rulings and legal commentaries, this paper asks if the full breadth of the provision's language has been grasped or if other aspects of it have been overlooked.

Judicial Treatment of Section 69

Although the Section 69 of the Bharatiya Nyaya Sanhita, 2023 was inserted as an independent offence to criminalise sexual intercourse by deceitful means and false promises of marriage, the early jurisprudence on the newly inserted provision has overwhelmingly focused on the latter.¹⁵ A review of the decided cases shows that the courts have interpreted Section 69 of the BNS in tandem with the law relating to false promises of marriage under Sections 375 and 90 of the Indian Penal Code. Consequently, the phrase "deceitful means" which Parliament specifically inserted in the new provision has garnered little judicial scrutiny. Courts have overwhelmingly focused on whether the accused had no intention to marry the complainant from the very beginning of the relationship. This approach is problematic because it reflects a restrictive interpretation of Section 69 of the BNS. This paper contends that the courts must

¹⁴ Swapnil Singh, *And the Law Comes Knocking: Section 69 and the Impact on Live-in Relationships in India (Part 3 of 6)*, Oxford Human Rights Hub (Sept. 27, 2025)

¹⁵ Mansha Khemka, *Section 69 of the BNS: High Court Decisions, Bail Success Rate & Legal Trends*, Khemka & Assocs. (Oct. 27, 2025).

adopt a broader view when construing "deceitful means" contained in Section 69 of the BNS. One of the earliest cases dealing with Section 69 of the BNS is *Deepak v. State of Madhya Pradesh*.¹⁶ In this case, the Madhya Pradesh High Court was dealing with a bail application which was filed by the accused after being charged with sexual intercourse by the complainant on the basis of a promise of marriage. While considering the bail petition, the Court was required to determine whether the allegations levelled against the accused even prima facie satisfied the requirements of Section 69 of the BNS. The Court noted that the complainant and the accused had been in a relationship for a considerable amount of time before the sexual intercourse took place and that there was no coercion on the part of the accused from the beginning of the relationship. However, the discussion by the Court was almost entirely focused on whether there was a promise of marriage which was false from the very beginning. The Court did not attempt to interpret the phrase "deceitful means" which Parliament specifically inserted while enacting Section 69. Similarly, the Court did not discuss the Explanation to Section 69.¹⁷ Consequently, even though *Deepak v. State of Madhya Pradesh* was decided under the new provision, the decision reflects the same principles which were previously applied by the courts while dealing with false promises of marriage under the IPC. The same observation can be made while considering *Ankit Hukumchand Malviya v. State of Maharashtra, 2025*.¹⁸ Once again, the issue before the Court was whether sexual intercourse which took place between the accused and the complainant fell under Section 69 of the BNS. The dispute arose out of allegations that the complainant had agreed to have sexual intercourse with the accused on the promise of marriage which was false from the beginning. However, once again, the discussion by the Court was focused on whether there was a promise of marriage which was false from the beginning. The Court did not consider the other forms of deceitful means which Parliament had in mind while enacting Section 69. Similar to Deepak's case, the Court did not attempt to discuss the Explanation to Section 69. By focussing almost entirely on whether the promise of marriage was false from the beginning, the Court once again failed to consider the broader implications of Section 69.

Although *Mahesh Damu Khare v. State of Maharashtra*¹⁹ was decided under the IPC, this case is relevant to the present discussion because it shows the approach which courts adopted while dealing with allegations of sexual intercourse by complainant on the basis of promise of

¹⁶ *Deepak v. State of Madhya Pradesh*, M.Cr.C. No. 40148 of 2025

¹⁷ *Deepak v. State of Madhya Pradesh*, M.Cr.C. No. 40148 of 2025.

¹⁸ *Ankit Hukumchand Malviya v. State of Maharashtra, 2025 SCC OnLine Bom 734.*

¹⁹ *Mahesh Damu Khare v. State of Maharashtra, (2024) 11 S.C.C. 398 (India).*

marriage which was false from the beginning. In this case, the Supreme Court was considering the appeal of an accused who was convicted for sexual intercourse by the complainant on the basis of promise of marriage which was false from the beginning. While discussing the requirements for conviction under Section 375 of the IPC, the Court noted that not every broken promise of marriage would amount to sexual intercourse by false promise of marriage. The crucial consideration was whether the accused had no intention to marry the complainant from the very beginning of the relationship. If the promise of marriage was genuine but could not be fulfilled due to subsequent events beyond the control of the accused, no conviction would follow. This view has been consistently followed by the courts while dealing with charges under Section 375 of the IPC. Consequently, when dealing with charges under Section 69 of the BNS, the courts have consistently focussed on whether the promise of marriage was false from the beginning rather than whether the accused used any other form of deceitful means as contemplated by Parliament.

A review of the cases shows that although Section 69 of the BNS expressly provides that sexual intercourse by "deceitful means" would amount to an offence, none of the decided cases have considered the allegations which fall under this category.²⁰ Deceitful means include inducing someone to marry after suppressing their identity or making false promises of job or promotion.²¹ The false promise to marry crime, on the other hand, is relevant when a guy purposefully makes a commitment to marry a woman, intending to violate it, in order to get her permission and take advantage of her sexually. All the cases which have been decided so far have focused on whether the promise of marriage was false from the beginning. This approach by the courts has been consistent with the law which was in existence before the BNS came into force. Under the IPC, sexual intercourse by false promise of marriage was an offence and the courts had consistently held that in order to convict the accused, it must be shown that the promise of marriage was false from the beginning. However, Parliament has broadened the scope of this offence by inserting Section 69 in the BNS. By enacting this provision, Parliament made it clear that sexual intercourse by false promises of marriage, employment or career prospects as well as false information regarding any other aspect of the complainant's identity would amount to an offence.²² However, the courts have so far failed to adopt this view while

²⁰ Khemka & Associates, *Section 69 BNS False Promise of Marriage: Analysis of 132 High Court Cases*, Khemka & Assocs. (Oct. 27, 2025).

²¹ Palak Chaturvedi, *Analysing the Vagueness and Shortcomings of Section 69, Bharatiya Nyaya Sanhita, 2023*, Int'l J. for Multidisciplinary Rsch. (2024).

²² Aparna S., *Shamefully Misogynistic Section 69 of Bharatiya Nyaya Samhita Is This the Way Forward?*, LiveLaw (2024).

interpreting Section 69. The only issue which the courts have focussed on is whether the promise of marriage was false from the beginning. This narrow view has been taken despite the fact that the Explanation to Section 69 specifically mentions other forms of deceitful means. This trend in the early jurisprudence on Section 69 of the BNS forms the basis for the arguments which will be advanced in this paper.

Need for a Broader Interpretation

Law must announce its demands.²³ If ordinary people do not understand what is required of them if consulting statute books and case reporters would not inform a reasonable person of her legal duties-the rule of law falters. And constitutionally, due-process limits on legislative and executive power come into effect.²⁴ The need for a broader interpretation of Section 69 comes from the language of the provision itself. The section does not deal only with false promises of marriage. It uses the wider expression "*deceitful means*" and the Explanation includes inducement or false promises of employment or promotion, as well as marrying by suppressing identity.²⁵ However, the early discussion around Section 69 has mainly continued the approach developed in cases involving false promises of marriage. In *Pramod Suryabhan Pawar v. State of Maharashtra*, the Supreme Court held that a promise to marry would amount to deception only where the accused never intended to fulfil it from the beginning and the promise had a direct connection with the woman's decision to engage in sexual intercourse.²⁶ While this principle remains important, it should not result in Section 69 being understood only through the question of marriage. The wording of the provision suggests that Parliament intended to address a wider range of deceptive conduct that may influence a person's consent. A broader interpretation is therefore necessary to give proper meaning to the other forms of deception recognized under Section 69. False promises relating to employment or promotion and the suppression of identity may affect a person's decision to engage in sexual intercourse in ways that are different from a false promise of marriage. Yet, these aspects have received far less attention in judicial decisions and academic discussions, which have largely remained focused on marriage-related deception²⁷. This does not mean that every broken promise should be treated as a criminal offence. The deception must still have a clear connection with the sexual

²³ Kiel Brennan-Marquez, *Extremely Broad Laws*, 61 ARIZ. L. REV. 641 (2019).

²⁴ *Kolender v. Lawson*, 461 U.S. 352, 357 (1983).

²⁵ Bharatiya Nyaya Sanhita, No. 45 of 2023, 69, Explanation, India Code (2023).

²⁶ *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 SCC 608.

²⁷ S.M. Aamir Ali, Anuttama Ghose & Anuska Vashist, *Bharatiya Nyaya Sanhita and the False Promise to Marry* (2024).

act, and the safeguards developed by the courts must continue to apply. The need for a broader interpretation is simply to ensure that Section 69 is not reduced in practice to a law dealing mainly with false promises of marriage. Courts should therefore give equal attention to the other forms of deception expressly recognized by Parliament and develop principles that allow the provision to operate according to its full scope.

The Neglected Dimensions of "Deceitful Means"

Although the discussion surrounding Section 69 has largely centered on false promises of marriage, the provision itself recognizes other forms of deception that have received comparatively little attention. The *actus reus* of Section 69 is sexual intercourse obtained "by deceitful means" or, specifically, "by making promise to marry without any intention of fulfilling the same." The *mens rea* is expressed through the same phrase: the accused must make the promise "without any intention of fulfilling the same," which makes fraudulent intent at the outset a requirement of the offence.²⁸ The Explanation to the section further refers to inducement or false promises relating to employment or promotion and to marrying by suppressing identity. The inclusion of these situations shows that the provision was not framed around marriage alone. Instead, it recognises that deception may take different forms and may influence a person's decision to engage in sexual intercourse in different circumstances. Despite this, these aspects have not received the same level of judicial or academic consideration as false promises of marriage.²⁹ The following discussion therefore looks at these less examined forms of deception and their place within the wider meaning of "deceitful means." The reference to suppression of identity is particularly significant because it raises a different question from the usual cases involving a promise to marry. Here, the concern is not necessarily with a promise that was made and later broken, but with a person being induced into an intimate relationship without knowing an important fact about the identity of the other party.³⁰ The inclusion of identity suppression within Section 69 nevertheless demonstrates the wider concern of the provision with deception and its effect on consent. The statutory language suggests that Parliament was not concerned only with promises that were later broken, but also with situations where a person is induced to enter into an intimate relationship without being aware of an important fact concerning the identity of the other party. This makes the provision

²⁸ *Deepak Gulati v. State of Haryana*, (2013) 7 SCC 675, 682–83.

²⁹ Shubh Arora, *The Labyrinth of Rape by False Promise of Marriage: A Critical Analysis*, (2020) 1 NLIU L. Rev. 170.

³⁰ Kriti Malik, *False Promise to Marry*, LiveLaw (May 22, 2026).

distinct from the traditional false-promise-of-marriage cases that have dominated judicial discussion. At the same time, courts must be careful in deciding when the suppression of identity is serious enough to attract criminal liability. The deception must have a meaningful connection with the decision to engage in sexual intercourse, rather than merely being an unrelated false statement a nexus requirement that the Supreme Court has already developed in the context of false promises of marriage and that applies with equal force here.³¹ The same reasoning applies to the references to employment and promotion in the Explanation. These forms of deception introduce a different context in which a person's consent may be influenced. A false promise of employment or advancement may be used to induce sexual intercourse where the person making the promise has no intention of providing the promised benefit. Courts have already recognised, in the analogous context of a false promise of marriage, that such deception can simultaneously attract liability for cheating, underscoring that the deceit-based rationale of Section 69 is not confined to matrimonial promises.³² However, the provision must be applied carefully so that every unfulfilled promise or failed expectation does not automatically become a criminal offence.³³ What matters is whether the promise or inducement was deliberately used as a means of obtaining sexual intercourse and whether the other requirements of Section 69 are satisfied. The courts therefore have an important role in developing principles that can distinguish genuine cases of deceptive inducement from ordinary disputes or promises that were later not fulfilled.

Taken together, these aspects show why the interpretation of Section 69 should not remain confined to false promises of marriage. Employment, promotion and suppression of identity represent different ways in which deception may operate, and each raises its own questions about consent and criminal liability. The limited attention given to these categories creates a need for further judicial and academic discussion. A broader interpretation of "deceitful means" would not require courts to treat every form of dishonesty as an offence; recent decisions applying Section 69 have themselves cautioned against conflating a failed relationship with criminal deceit.³⁴ Rather, it would require courts to examine the different forms of deception recognised by Parliament and determine how each should operate within the framework of Section 69. This would allow the provision to be understood according to its complete wording instead of allowing one category false promises of marriage to define the scope of the entire

³¹ Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 S.C.C. 608, (India).

³² Anurag Soni v. State of Chhattisgarh, (2019) 13 SCC 1, 37.

³³ State of U.P. v. Naushad, (2013) 16 SCC 651.

³⁴ Ankit Hukumchand Malviya v. State of Maharashtra, 2025 SCC OnLine Bom 734 (India).

offence.³⁵

Conclusion

Section 69 of the Bharatiya Nyaya Sanhita, 2023 marks an important development in the law relating to sexual intercourse obtained through deception. However, the discussion surrounding the provision has largely focused on false promises of marriage, while the wider expression "deceitful means" has received much less attention. This approach does not fully reflect the language of the provision, which also recognises deception relating to employment, promotion and suppression of identity. These forms of deception may affect a person's decision to engage in sexual intercourse in different ways and therefore deserve greater judicial and academic attention.³⁶

The early judicial treatment of Section 69 has also largely followed the principles developed in cases involving false promises of marriage. While the requirement that the accused must have had no intention to fulfil the promise from the beginning remains important, it should not determine the entire scope of Section 69. The courts must also examine the other forms of deception recognised by the provision and develop principles for their application.³⁷

At the same time, a broader interpretation should not mean that every broken promise or dishonest statement becomes a criminal offence. The deception must be intentional and must have a meaningful connection with the decision to engage in sexual intercourse.³⁸ The deception should also be sufficiently significant to have influenced that decision, as criminal liability should not arise from every form of dishonesty or failed expectation.³⁹ The challenge is therefore to maintain a balance between giving full effect to "deceitful means" and preventing an unnecessary expansion of criminal liability.⁴⁰

Ultimately, Section 69 should not be understood merely as a law dealing with false promises of marriage. Its wider language shows that deception may take different forms, and the courts must give proper attention to each of them. A broader yet careful interpretation would give

³⁵ Deepak Gulati vs state of haryana 2013 7 S.C.C. at 682, (2021).

³⁶ Alan Wertheimer, *Consent to Sexual Relations*, 2 J. Soc. Phil. 89, 89–104 (2000).

³⁷ Michelle Madden Dempsey, Sexual Consent, in *The Oxford Handbook of Philosophy of Criminal Law* 163, 163–82 (John Deigh & David Dolinko eds., 2011).

³⁸ Peter Westen, Some Common Confusions About Consent in Rape Cases, 2 Ohio St. J. Crim. L. 333, 333–59 (2004).

³⁹ Alan Wertheimer, *Consent to Sexual Relations*, 2 J. Soc. Phil. 89, 89–104 (2000).

⁴⁰ Douglas Husak, *Overcriminalization: The Limits of the Criminal Law* 3–24 (Oxford Univ. Press 2008).

meaning to the full scope of the provision while ensuring that criminal liability is limited to cases involving genuine and intentional deception that directly influences the decision to engage in sexual intercourse.