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From Deceptive Agreement to Criminal Deceit: The Development of Judicial Doctrine and Emerging Interpretive Challenges in the Application of Section 69 of the Bharatiya Nyaya Sanhita, 2023

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ABSTRACT

Section 69 of the Bharatiya Nyaya Sanhita, 2023 ("BNS") represents a significant development in Indian criminal law by specifically addressing sexual intercourse procured through deceitful means or a false promise of marriage made without an intention to fulfil it, where the conduct does not constitute rape. The provision seeks to address a doctrinal gap that developed under the erstwhile legal framework by recognising deceptive sexual exploitation as a distinct form of criminality. This research examines the evolution of judicial principles governing false promises of marriage and their subsequent statutory incorporation under Section 69. It particularly analyses the requirement of dishonest intention at the inception of the promise, the proximate causal nexus between deception and sexual consent, and the evidentiary difficulties associated with establishing the accused's state of mind retrospectively. The study further examines the scope of the expression "deceitful means," including deception relating to employment, promotion, identity, and marital status, and considers the interpretive uncertainty and potential overbreadth arising from its wider application. The relationship between Section 69 and the provisions concerning consent vitiated by fear or misconception and the statutory definition of rape is also examined to determine the appropriate boundaries of criminal liability. The research further considers the constitutional and legal dimensions of Section 69, particularly in relation to consent, sexual autonomy, gender equality, privacy, proportionality, and the possibility of misuse. Judicial decisions demonstrate the importance of distinguishing a deliberate and fraudulent promise made without intention to fulfil it from a genuine promise that subsequently fails due to changed circumstances. The paper argues that the application of Section 69 requires an evidence-based and culpability-oriented approach, under which criminal liability is established only where deliberate deception existed at the inception of the promise and bore a proximate and material connection with the decision to engage in

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sexual intercourse. Such an approach is necessary to protect individuals from calculated sexual exploitation while avoiding the unwarranted criminalisation of consensual relationships that subsequently fail.

Keywords: BNS, Section 69, Criminal Laws

I. INTRODUCTION

The criminalisation of sexual intercourse obtained through deception raises significant questions concerning consent, personal autonomy, individual liberty and the boundaries of criminal liability. In India, the legal treatment of sexual relationships arising from false promises of marriage has developed through judicial interpretation, particularly under Sections 375 and 90 of the Indian Penal Code, 1860 (IPC). Courts have consistently recognised that a promise of marriage subsequently left unfulfilled does not automatically constitute rape. The central question has been whether the promise was dishonest from its inception and whether it directly induced the complainant to consent to sexual intercourse.

The enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS) introduced a distinct statutory provision addressing this issue. Section 69 criminalises sexual intercourse with a woman by deceitful means or by a promise to marry made without any intention of fulfilling it, where the intercourse does not amount to the offence of rape. The provision prescribes imprisonment of either description for a term which may extend to ten years, together with liability to fine. Its Explanation includes inducement for, or a false promise of, employment or promotion, and marrying by suppressing identity within the expression ‘deceitful means’.¹

Section 69 represents an important development in the structure of Indian criminal law because it creates a specific offence for certain forms of deceptive sexual conduct that fall outside the statutory definition of rape. It reflects the legislative recognition that deliberate deception may affect an individual’s decision to engage in sexual intercourse, even where the legal ingredients of rape are not established. However, the creation of a separate offence also raises questions concerning the precise boundaries of criminal deception and the distinction between fraudulent inducement and the breakdown of a consensual relationship.

Before the introduction of Section 69, courts were required to determine whether consent obtained through a false promise of marriage amounted to consent given under a misconception of fact. In *Uday v. State of Karnataka*, the Supreme Court emphasised the importance of examining the circumstances surrounding the promise and the complainant’s decision to engage

¹ The Bharatiya Nyaya Sanhita, No. 45 of 2023, INDIA CODE (2023), § 69 & expl.

in sexual intercourse.² Subsequently, in *Deepak Gulati v. State of Haryana*, the Court distinguished a promise made without any genuine intention to marry from a promise that could not be fulfilled because of subsequent circumstances.³

The principles were further developed in *Pramod Suryabhan Pawar v. State of Maharashtra*, where the Supreme Court identified two requirements: the promise must have been false when it was made, and it must have had a direct and proximate connection with the complainant's decision to engage in sexual intercourse.⁴ These decisions provide an important doctrinal foundation for understanding the relationship between deception, consent and criminal culpability under the new statutory framework.

The present study examines the development of this judicial doctrine and its relevance to Section 69 of the BNS. It analyses the statutory meaning of deceitful means, the evidentiary difficulties associated with proving dishonest intention, the relationship between Sections 28, 63 and 69 of the BNS, and the constitutional implications of criminalising deceptive conduct within intimate relationships. It also considers the challenge of protecting individuals from deliberate sexual exploitation without converting every failed promise or unsuccessful relationship into a criminal offence.

The central argument of this paper is that Section 69 requires a precise, evidence-based and culpability-oriented interpretation. Its effective application depends upon establishing deliberate deception, the necessary connection between that deception and sexual intercourse, and the statutory distinction between the offence under Section 69 and rape.

II. RESEARCH METHODOLOGY

This research adopts a doctrinal and analytical methodology. It examines statutory provisions, judicial decisions, parliamentary materials and legal scholarship to understand the development and application of Section 69 of the Bharatiya Nyaya Sanhita, 2023.

A. Doctrinal research

The study primarily relies on the analysis of statutory provisions and judicial precedents. Section 69 of the BNS is examined alongside Sections 28 and 63, which concern consent given under fear or misconception and the statutory definition of rape, respectively. The earlier provisions of Sections 90 and 375 of the IPC are considered to understand the legal framework within which the judicial doctrine originally developed.

² *Uday v. State of Karnataka*, (2003) 2 S.C.R. 231, 243 (India).

³ *Deepak Gulati v. State of Haryana*, (2013) 6 S.C.R. 544, ¶¶ 18, 21 (India).

⁴ *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 11 S.C.R. 423, ¶ 18 (India).

The judgments of the Supreme Court, including *Uday, Deepak Gulati, Pramod Suryabhan Pawar, Anurag Soni v. State of Chhattisgarh*, *Dr. Dhruvaram Murlidhar Sonar v. State of Maharashtra* and *Maheshwar Tigga v. State of Jharkhand*, are analysed to identify the principles governing dishonest intention, consent and causation.⁵

B. Analytical method

The research uses analytical reasoning to examine the distinction between a false promise made with dishonest intention and the subsequent breach of a genuine promise. It also evaluates the scope of ‘deceitful means’, the possibility of overlapping criminal provisions and the evidentiary difficulties involved in establishing intention at the inception of a relationship.

C. Sources of data

The study relies on primary and secondary sources. Primary sources include the BNS, the former IPC, Supreme Court judgments and the Parliamentary Standing Committee’s report on the BNS.⁶ Secondary sources include legal journal articles and scholarly commentary addressing sexual consent, criminal deception and the interpretation of Section 69.

The statutory text and judicial materials form the principal basis of the analysis. Secondary literature is used to identify interpretive concerns and competing perspectives.

D. Scope and limitations

The research is confined to the legal interpretation of Section 69, with particular emphasis on false promises of marriage and other forms of deceitful inducement. Earlier IPC judgments are treated as sources of relevant doctrinal principles, rather than as direct decisions interpreting Section 69 itself.

The study does not undertake empirical research involving complainants, accused persons, police officers or members of the judiciary. Consequently, it does not make statistical claims about the frequency of complaints, conviction rates or the extent of misuse. Its conclusions are based on legal analysis and the materials examined.

III. LITERATURE REVIEW

The existing literature on deceptive sexual relationships in India can be examined through three principal themes: the judicial development of the false-promise doctrine, the statutory

⁵ *Anurag Soni v. State of Chhattisgarh*, (2019) 6 S.C.R. 972 (India); *Dhruvaram Murlidhar Sonar v. State of Maharashtra*, (2018) 13 S.C.R. 920 (India); *Maheshwar Tigga v. State of Jharkhand*, (2020) 9 S.C.R. 482 (India).

⁶ DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON HOME AFFAIRS, *Two Hundred Forty-Sixth Report on the Bharatiya Nyaya Sanhita, 2023* (Rajya Sabha Secretariat, Nov. 10, 2023).

introduction of Section 69, and the constitutional and evidentiary concerns arising from its application.

A. Judicial development of the false-promise doctrine

The judicial approach under the IPC forms the foundation of the present legal debate. In *Uday v. State of Karnataka*, the Supreme Court considered whether consent to sexual intercourse given in the context of a promise of marriage could be regarded as consent obtained under a misconception of fact. The decision illustrates the importance of examining the circumstances in which the promise was made and the complainant's understanding of the relationship.

In *Deepak Gulati v. State of Haryana*, the Court clarified that a subsequent failure to marry does not, by itself, establish that the original promise was fraudulent. The distinction depends upon the intention of the accused at the time the promise was made.⁷ This approach seeks to distinguish deliberate deception from a genuine relationship that subsequently encounters difficulties.

The judgment in *Pramod Suryabhan Pawar v. State of Maharashtra* further refined the applicable principles. The Court held that the promise must have been made in bad faith, without an intention to fulfil it, and that the false promise must bear a direct nexus to the complainant's decision to engage in sexual intercourse.⁸ This requirement of a causal nexus prevents the mere existence of a broken promise from becoming sufficient proof of criminal liability.

In *Anurag Soni v. State of Chhattisgarh*, the Court considered circumstances in which the evidence supported the conclusion that the promise of marriage was dishonest from the outset.⁹ Conversely, *Dr. Dhruvaram Murlidhar Sonar v. State of Maharashtra* and *Maheshwar Tigga v. State of Jharkhand* emphasised the need to distinguish fraudulent inducement from consensual relationships in which the intention to marry subsequently changes.¹⁰

These decisions demonstrate that the legal inquiry is concerned not simply with whether a marriage took place, but with the intention underlying the promise and its relationship to the consent given.

B. Section 69 as a distinct statutory offence

The introduction of Section 69 has generated scholarly discussion concerning whether the provision appropriately addresses a gap in the previous criminal-law framework. The provision

⁷ *Deepak Gulati*, *supra* note 3, ¶ 21.

⁸ *Pramod Suryabhan Pawar*, *supra* note 4, ¶ 18.

⁹ *Anurag Soni*, *supra* note 5.

¹⁰ *Dhruvaram Murlidhar Sonar*, *supra* note 5; *Maheshwar Tigga*, *supra* note 5.

expressly recognises specified forms of deceptive sexual conduct as a separate offence where the conduct does not constitute rape.

Amolika Maheshwari and Anant Sharma, in their article *Section 69 of Bharatiya Nyaya Sanhita: A Criminal Fraud*, examine the legal implications of criminalising sexual intercourse obtained through deception.¹¹ Their work forms part of the developing discussion concerning the provision's scope and the need to distinguish deliberate fraud from ordinary interpersonal misrepresentation.

Md. Imran Wahab's analysis of the vagueness and shortcomings of Section 69 raises questions concerning the breadth of its language and the possibility of inconsistent interpretation.¹² These concerns are particularly relevant to representations concerning employment and promotion, where the connection between the alleged deception and sexual consent may require careful examination.

Kinjal Majumdar and Basupriya Chattopadhyay also examine the legal implications of Section 69, including the interpretation of deceitful conduct and its relationship with consent.¹³ The literature indicates that the provision's effectiveness will depend substantially upon the development of consistent judicial standards.

C. Consent, autonomy and constitutional concerns

The relationship between consent and deception forms another important area of scholarship. Dharmendra Yadav and Rajeev Kumar's discussion of deceit, consent and justice highlights the need to consider the circumstances in which consent is obtained and the extent to which deliberate misrepresentation affects individual autonomy.¹⁴

The broader constitutional debate concerns the balance between protecting individuals from deceptive sexual exploitation and respecting the autonomy of adults in intimate relationships. The criminal law must recognise that consent is an important expression of personal choice. At

¹¹ Amolika Maheshwari & Anant Sharma, *Section 69 of Bharatiya Nyaya Sanhita: A Criminal Fraud*, 5 VISHWAKARMA U. L.J. 1 (2025), <https://vulj.vupune.ac.in/archives8/Section%2069%20of%20BNS%20A%20Criminal%20Fraud.pdf>.

¹² Md. Imran Wahab, *Analysing the Vagueness and Shortcomings of Section 69 of the Bharatiya Nyaya Sanhita (BNS)*, 2023, 6(6) INT'L J. FOR MULTIDISCIPLINARY RSCH. IJFMR240631101 (2024), <https://www.ijfmr.com/research-paper.php?id=31101>.

¹³ Kinjal Majumdar & Basupriya Chattopadhyay, *Deciphering the Legal Implications of Section 69 in BNS: A Comprehensive Analysis*, 7(2) INT'L J.L. MGMT. & HUMAN. 853 (2024), <https://ijlmh.com/paper/deciphering-the-legal-implications-of-section-69-in-bns-a-comprehensive-analysis/>.

¹⁴ Dharmendra Yadav & Rajeev Kumar, *Deceit, Consent, and Justice: A Critical Review of Section 69 of the BNS* 2023, 7(2) INDIAN J.L. & LEGAL RSCH. 1899 (2025), <https://www.ijllr.com/post/deceit-consent-and-justice-a-critical-review-of-section-69-of-the-bns-2023>.

the same time, the existence of a consensual relationship cannot automatically exclude liability where the statutory ingredients of an offence are established.

The literature also raises questions concerning privacy, gender equality, proportionality and the evidentiary difficulties of proving an individual's intention at an earlier point in time.¹⁵ These concerns support the need for clear statutory interpretation and careful evaluation of evidence.

D. Research gap

The existing judicial doctrine provides substantial guidance on false promises of marriage under the IPC. However, Section 69 introduces a distinct statutory offence and expressly includes forms of deception beyond marriage.

A significant area for further analysis is therefore the relationship between the established judicial tests and the broader statutory expression 'deceitful means'. Particular attention must be given to the treatment of employment-related inducements, suppression of identity, the relevance of marital status, and the distinction between material deception and ordinary misrepresentation.¹⁶

This paper addresses that issue by examining how established principles of intention, causation and consent may guide the interpretation of Section 69 while recognising the provision's distinct statutory language.

IV. CURRENT APPLICATIONS

Section 69 came into force as part of the BNS on 1 July 2024.¹⁷ Its application requires courts and investigating authorities to examine the specific statutory ingredients rather than treating the failure of a relationship as sufficient proof of an offence.

A. False promise of marriage

The principal application of Section 69 concerns sexual intercourse following a promise of marriage that was allegedly made without any intention of fulfilment. The central issue is whether the promise was deliberately false when it was made.

¹⁵ See Maheshwari & Sharma, *supra* note 11.

¹⁶ The Standing Committee recommended adding the words "or marital status" after "suppressing identity" in the Explanation to clause 69, because accused persons had deceived women into marriage or sexual intercourse without revealing that they were already married. DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON HOME AFFAIRS, *Two Hundred Forty-Sixth Report on the Bharatiya Nyaya Sanhita, 2023* (Rajya Sabha Secretariat, Nov. 10, 2023), ¶ 3.11.1, at 24. The Explanation as enacted does not contain those words. The Bharatiya Nyaya Sanhita, No. 45 of 2023, INDIA CODE (2023), § 69 expl.

¹⁷ MINISTRY OF HOME AFFAIRS, Notification S.O. 850(E) (Feb. 23, 2024), GAZETTE OF INDIA, Extraordinary, pt. II sec. 3(ii) (appointing July 1, 2024 as the date on which the provisions of the Bharatiya Nyaya Sanhita, 2023, except § 106(2), came into force).

The earlier Supreme Court decisions provide a framework for analysing this question. In *Pramod Suryabhan Pawar*, the Court emphasised both dishonest intention at inception and a direct causal connection between the promise and consent.¹⁸ Although the decision concerned the IPC, these principles are relevant to the interpretation of the corresponding conduct expressly addressed by Section 69.

For example, where contemporaneous communications or conduct indicate that a person knowingly made a false promise solely to induce sexual intercourse, those circumstances may be relevant to establishing the required intention. Conversely, where a genuine intention to marry existed but later changed because of unforeseen circumstances, the subsequent failure to marry cannot alone establish the offence.

The distinction requires a contextual assessment of the evidence in each case.

B. Deception relating to employment or promotion

Section 69 expressly includes inducement for, or a false promise of, employment or promotion within its Explanation of ‘deceitful means’.¹⁹ This expands the provision beyond promises of marriage.

The application of this clause may involve circumstances in which a person allegedly uses a false employment opportunity or promise of professional advancement to induce sexual intercourse. However, the existence of a false representation and subsequent sexual intercourse does not eliminate the need to establish the statutory connection between the two.

Courts must therefore consider whether the representation was deliberate, whether it was material to the circumstances in which consent was given, and whether the conduct satisfies the remaining requirements of Section 69. A broad interpretation without these distinctions could create uncertainty concerning the boundary between criminal deception and other forms of dishonest or objectionable conduct.

C. Suppression of identity

The statutory Explanation also refers to marrying by suppressing identity.²⁰ This provision raises questions concerning the nature of the identity concealed, the materiality of the concealment and the relationship between the misrepresentation and the sexual act.

The issue is particularly significant where an individual allegedly conceals information that would materially affect the other person’s decision to enter a relationship or agree to marriage.

¹⁸ *Pramod Suryabhan Pawar*, *supra* note 4, ¶ 18.

¹⁹ Bharatiya Nyaya Sanhita § 69 expl.

²⁰ *Id.*

Nevertheless, the precise circumstances must be assessed against the statutory language. Not every omission or inaccurate personal statement can automatically be treated as criminal conduct under Section 69.

D. Relationship with the offence of rape

Section 69 expressly applies where the sexual intercourse does not amount to rape.²¹ Its application must therefore be distinguished from the determination of an offence under Section 63 of the BNS.

The distinction is important because the existence of Section 69 does not mean that conduct satisfying the legal ingredients of rape should instead be treated as a lesser or alternative offence. The statutory requirements of the relevant provisions must be examined separately, with appropriate attention to the facts and evidence.

E. Evidentiary assessment

In practice, proving dishonest intention at the inception of a promise presents a significant evidentiary challenge. Relevant material may include contemporaneous communications, representations made to the complainant, the chronology of events, conduct concerning marriage preparations, evidence of concealment and other surrounding circumstances.

No single circumstance should automatically determine the outcome. A prolonged relationship, for example, may be relevant to assessing the parties' conduct, but its duration alone cannot conclusively establish either the existence or the absence of fraudulent intent.

The evidentiary inquiry must remain focused on the statutory ingredients and the applicable standard of proof.

V. POTENTIAL APPLICATIONS

The scope of Section 69 extends beyond the conventional situation involving a false promise of marriage. Its potential applications must be examined in light of the statutory Explanation, the requirement that the conduct does not amount to rape, and the principles governing criminal culpability.

A. Protection against deceptive sexual inducement

Section 69 may provide a specific legal mechanism for addressing sexual intercourse allegedly procured through deliberate deception. Its potential significance lies in recognising that

²¹ Bharatiya Nyaya Sanhita §§ 63, 69.

deceptive conduct may warrant criminal scrutiny even where the requirements of rape are not satisfied.

The provision may be relevant in cases involving calculated misrepresentations intended to secure sexual access. Its application, however, must remain confined to conduct falling within the statutory language. The mere presence of dishonesty in an interpersonal relationship is not necessarily sufficient to establish the offence.

B. Economic and professional dependence

The express reference to employment and promotion raises the possibility of applying Section 69 to situations involving professional dependence or unequal access to economic opportunities. A false assurance of employment or advancement may carry particular significance where an individual relies upon the representation when making personal decisions.

However, the provision should not be interpreted as automatically criminalising every false employment-related statement associated with a sexual relationship. The prosecution must establish the requisite statutory elements, including the connection between the alleged deceit and the sexual intercourse.

C. Concealment of material identity

The provision may also apply to conduct involving the suppression of identity in connection with marriage. This raises questions about how courts should distinguish deliberate concealment of material information from inaccuracies that do not satisfy the statutory requirements.

Judicial clarification may be necessary to identify the circumstances in which identity-related deception falls within Section 69. Such clarification would promote consistency while preserving the provision's intended scope.

D. Development of evidentiary standards

Future judicial decisions may provide more detailed guidance on the types of evidence relevant to establishing dishonest intention at inception. Courts may need to consider contemporaneous digital communications, documentary evidence, conduct before and after the promise, and the sequence of events.

Digital evidence can assist in reconstructing the circumstances surrounding an alleged promise. Nevertheless, isolated messages or statements should not be interpreted without context. The authenticity, completeness and relevance of electronic material must be considered alongside the other evidence.

E. Clarification of the relationship between statutory offences

Section 69 may also require further judicial clarification concerning its relationship with Sections 28 and 63 of the BNS. A clear distinction between consent vitiated by a legally recognised misconception, rape, and the distinct offence under Section 69 would help prevent inconsistent application.

The development of such principles could provide greater predictability for complainants, accused persons, investigators and courts.

VI. DISCUSSION

Section 69 reflects a legislative attempt to address deceptive sexual conduct through a distinct criminal offence. Its interpretation must nevertheless account for the difficulties already encountered by courts under the IPC, particularly the distinction between a promise that was fraudulent from the beginning and a genuine promise that was subsequently abandoned.

A. From judicial doctrine to statutory criminalisation

The earlier judicial framework developed around the relationship between consent and misconception of fact. Courts were required to determine whether the complainant's consent had been obtained through a sufficiently significant deception to attract criminal liability.

The decisions in *Uday*, *Deepak Gulati* and *Pramod Suryabhan Pawar* demonstrate the progressive development of the requirement of dishonest intention at inception. These judgments also emphasise that a direct connection must exist between the alleged false promise and the decision to engage in sexual intercourse.²²

Section 69 gives statutory recognition to a distinct category of deceptive sexual conduct. However, the earlier judicial principles remain relevant in understanding the difference between deliberate inducement and a subsequent failure to fulfil a genuine promise.

The transition from judicial doctrine to a separate statutory offence does not eliminate the need for careful interpretation. Instead, it makes the identification of the offence's precise boundaries particularly important.

B. The meaning and scope of 'deceitful means'

The expression 'deceitful means' is central to Section 69. The Explanation identifies employment, promotion and suppression of identity in connection with marriage as relevant

²² *Uday*, *supra* note 2; *Deepak Gulati*, *supra* note 3; *Pramod Suryabhan Pawar*, *supra* note 4.

forms of deception. Although these examples provide some statutory guidance, questions remain concerning the threshold at which a representation becomes criminally actionable.

The difficulty arises because human relationships frequently involve expectations, assurances and changing circumstances. A representation may be inaccurate without necessarily having been made with the intention of procuring sexual intercourse. Similarly, a promise may be made sincerely but later become impossible to fulfil.

A sound interpretation must therefore distinguish between the existence of a false representation and the commission of the statutory offence. The materiality of the representation, the intention accompanying it and its connection with the sexual act are important considerations.

The principle of legality also requires criminal provisions to be applied with sufficient clarity. Where statutory language permits multiple interpretations, courts should identify a construction that respects the legislative text while avoiding the creation of liability beyond the provision's established scope.

C. Proving *mens rea*

The most difficult element in many cases is establishing the accused's intention at the time the promise was made. Unlike the subsequent failure to marry, which may be established through objective evidence, the original intention is often inferred from surrounding circumstances.

Such an inference must be based on evidence rather than speculation. Relevant circumstances may include communications made at the time of the promise, the existence of conflicting commitments, deliberate concealment of material facts, conduct concerning proposed marriage arrangements, and the sequence of events.

The decision in *Anurag Soni* illustrates the importance of evaluating the evidence to determine whether the promise was dishonest from its inception.²³ In contrast, the principles discussed in *Dhruvaram Murlidhar Sonar* and *Maheshwar Tigga* caution against treating a failed relationship as conclusive evidence of deception.²⁴

Neither the duration of the relationship nor the eventual refusal to marry should operate as an automatic test. The relevant question remains whether the evidence establishes the intention required by the applicable criminal provision.

²³ *Anurag Soni*, *supra* note 5.

²⁴ *Dhruvaram Murlidhar Sonar*, *supra* note 5; *Maheshwar Tigga*, *supra* note 5.

D. Consent and sexual autonomy

Consent is central to the operation of Section 69. The provision recognises that specified forms of deception may be relevant to the decision to engage in sexual intercourse. Its protective purpose must be considered alongside the autonomy of adults to make personal and intimate choices.

The distinction between consent obtained through deliberate deception and a relationship that subsequently deteriorates is therefore fundamental. Emotional distress arising from a failed relationship may be genuine and substantial, but it does not independently establish the ingredients of a criminal offence.

At the same time, the existence of an apparently consensual relationship cannot, by itself, resolve every allegation of deception. The relevant facts and statutory requirements must be examined in each case.

A balanced interpretation must avoid both extremes: disregarding evidence of calculated exploitation and presuming criminality merely because a relationship did not culminate in marriage.

E. Constitutional dimensions

Section 69 raises questions concerning equality, privacy and personal autonomy. Its operative language refers to sexual intercourse with a woman, while the Explanation identifies specified forms of deceitful conduct. The gender-specific formulation invites consideration of the relationship between the provision and the constitutional guarantees of equality under Articles 14 and 15.

The provision also intersects with the right to privacy and the autonomy associated with intimate relationships. The Supreme Court's decisions in *National Legal Services Authority v. Union of India* and *Navtej Singh Johar v. Union of India* form part of the broader constitutional context concerning identity, dignity, equality and personal autonomy.²⁵ Their relevance should not, however, be taken to mean that they directly determine the constitutional validity or interpretation of Section 69.

The constitutional inquiry requires attention to the statutory classification, the objective of the provision and the manner in which its operation affects the rights and interests of the persons concerned.

²⁵ *Nat'l Legal Servs. Auth. v. Union of India*, (2014) 5 SCC 438 (India); *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 (India).

F. Privacy, proportionality and potential misuse

Investigations into intimate relationships may involve private communications, personal histories and sensitive information. The collection and use of such material must respect applicable legal safeguards and the confidentiality interests of the persons involved.

Concerns about misuse must be addressed through fair procedures and evidentiary scrutiny rather than by dismissing genuine allegations. Equally, the seriousness of an allegation cannot substitute for proof of the statutory ingredients.

Section 69 prescribes imprisonment which may extend to ten years and liability to fine.²⁶ Given the significant consequences of criminal prosecution and conviction, the application of the provision requires particular care in identifying the conduct that attracts liability.

The appropriate approach is neither unrestricted criminalisation nor excessive reluctance to recognise deliberate deception. It is a principled assessment based on statutory language, evidence, intention and causation.

VII. RECOMMENDATIONS AND CONCLUSION

A. Recommendations

The interpretation and implementation of Section 69 should be guided by the following recommendations.

1. **Clarification of the expression ‘deceitful means’.** The legislature should consider providing further clarification regarding the scope of ‘deceitful means’, particularly in relation to employment, promotion and suppression of identity. Clearer guidance would assist courts in distinguishing deliberate deception connected with sexual intercourse from representations that do not satisfy the statutory requirements.
2. **Emphasis on dishonest intention at inception.** Courts should carefully examine whether the alleged promise was dishonest when it was made. A subsequent refusal or inability to marry should not, by itself, establish the offence. The assessment should consider the evidence concerning the accused’s intention at the relevant time.
3. **Establishment of a proximate causal nexus.** The connection between the alleged deception and the decision to engage in sexual intercourse should remain a central consideration. The prosecution should establish the necessary relationship between the deceptive conduct and the sexual act in accordance with the statutory requirements.

²⁶ Bharatiya Nyaya Sanhita § 69.

4. **Consistent evidentiary standards.** Investigating authorities and courts should assess contemporaneous communications, documentary evidence, conduct and the chronology of events in their proper context. No single circumstance, including the duration of the relationship or its eventual breakdown, should be treated as conclusive.
5. **Protection of privacy and confidentiality.** Investigations should respect the privacy and dignity of the persons involved. Sensitive communications and personal information should be handled in accordance with applicable procedural and legal safeguards.
6. **Judicial consistency.** Courts should distinguish the ingredients of Section 69 from those of rape and other offences. A consistent approach to the interpretation of Sections 28, 63 and 69 would reduce uncertainty and help ensure that each provision is applied according to its statutory purpose.
7. **Further empirical and doctrinal research.** Future research should examine reported cases arising under Section 69 after its commencement, including the treatment of different categories of deception, evidentiary standards and judicial reasoning. Empirical research may also help identify practical difficulties experienced by investigating authorities, complainants and accused persons.

B. Conclusion

Section 69 of the Bharatiya Nyaya Sanhita, 2023 represents a significant development in Indian criminal jurisprudence by creating a distinct offence addressing sexual intercourse procured through specified forms of deception where the conduct does not amount to rape. Its introduction reflects legislative recognition that deliberate deception may affect sexual autonomy and warrant criminal consequences.

The development of judicial doctrine under the IPC provides an important foundation for understanding the provision. The decisions in *Uday*, *Deepak Gulati*, *Pramod Suryabhan Pawar* and subsequent cases establish the importance of distinguishing a promise made dishonestly from one that subsequently fails.²⁷ They also demonstrate the significance of intention, consent and the causal connection between the alleged deception and sexual intercourse.

Nevertheless, Section 69 presents interpretive challenges concerning the breadth of 'deceitful means', the retrospective assessment of *mens rea*, the evidentiary treatment of intimate

²⁷ See, e.g., *Kaini Rajan v. State of Kerala*, (2013) 10 S.C.R. 196 (India); *Sonu @ Subhash Kumar v. State of Uttar Pradesh*, (2021) 2 S.C.R. 137 (India); *Mahesh Damu Khare v. State of Maharashtra*, (2024) 11 S.C.R. 886 (India); *Samadhan s/o Sitaram Manmothe v. State of Maharashtra*, 2025 INSC 1351 (India).

relationships and the relationship between the provision and the law of rape. Its gender-specific formulation and implications for privacy and personal autonomy also warrant continued constitutional examination.

The effective application of Section 69 requires a framework founded upon statutory precision, evidentiary rigour and respect for individual autonomy. Deliberate deception should be assessed according to the ingredients of the offence, while the subsequent failure of a genuine promise should not automatically attract criminal liability.

Ultimately, the development of a consistent judicial approach will be essential to reconciling the protection of individuals against deceptive sexual exploitation with the principles of fairness, proportionality and legal certainty. Section 69 must operate as a distinct criminal provision whose application is determined by evidence and law, rather than by assumptions about the success or failure of an intimate relationship.
