SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			UKHC010136402025 **CRLR/556/2025** Kunal Bhakat --Revisionist **Versus** State Of Uttarakhand --Respondent **Hon'ble Alok Mahra, J.** Mr. Rajat Mittal, Advocate for the revisionist. 2. Mr. Pradeep Lohani, A.G.A. for the State. 3. Ms. Urmila Mehta, Advocate, holding brief of Ms. Prabha Naithani, Advocate for respondent no. 2. 4. At the very outset, it is submitted by learned counsel for the revisionist that criminal misc. application earlier filed by the revisionist being C-528 No. 1046 of 2024 has already been withdrawn by the revisionist. 5. Reasons shown in the affidavit filed in support of the delay condonation application are sufficient to condone the delay. Accordingly, the delay condonation application (IA No.1 of 2025) is allowed. The delay in filing the present criminal revision is hereby condoned. 6. The present criminal revision is preferred against the order dated 22.04.2025 passed by learned District and Sessions Judge, Pauri Garhwal in Sessions Trial No. 19 of 2024, State Vs. Kunal Bhakat, whereby, discharge

			application filed by the revisionist was rejected and the learned Trial Court refused to discharge the revisionist in Case Crime No. 42 of 2023, under Section 376 of IPC, registered at Police Station-Laxmanjhulla, Pauri Garhwal and further passed an order for framing of charge under Section 376 of IPC against the revisionist. By way of this criminal revision, the revisionist has sought a prayer to set-aside this order dated 22.04.2025 passed by learned District and Sessions Judge, Pauri Garhwal in Sessions Trial No. 19 of 2024 and has also prayed that he may be discharged for the offence punishable under Section 376 of IPC. 7. Brief facts of the case are that the revisionist and the informant/complainant met through matrimonial website in the month of April, 2023 and thereafter both the families of the revisionist as well as of the respondent/complainant interacted with each other and intimacy grew between the complainant and the revisionist. It is further mentioned in the FIR that the mother of the revisionist was not agreeable for the marriage due to dark complexion of the complainant but revisionist assured the complainant that he would go against his family to marry her. It is further mentioned in the FIR that the revisionist as well as the complainant was working in the company at Bangalore. As such, it is further mentioned in the complaint that both complainant and the revisionist decided to spend time together and both agreed to meet at Delhi and from Delhi they went to Rishikesh on 30.06.2026 and stayed there in a resort where it is alleged that the revisionist for the first time made physical relations with the complainant. Thereafter, they returned back to their respective places

			and were in relationship since then. It is also mentioned that on 12.08.2023, the complainant went to Bangalore where the revisionist was posted and from Bangalore, they went to Coorg alongwith two other common friends and on 15.08.2023, again physical relations were alleged to be established between the complainant and the revisionist. Thereafter they continued their relationship. It is further mentioned in the FIR that since October, the revisionist had tried to neglect the complainant and started avoiding video calls and messages of the complainant. As such, the complaint was filed where the complainant had sought a prayer that strict action be taken against the revisionist under Section 12 of Protection of Women from Domestic Violence Act. Subsequently, on this complaint, an FIR was lodged. 8. Learned counsel for the revisionist submits that even if the contents of the FIR are taken to be true on its face value, then also, no offence under Section 376 of IPC is made out against the revisionist. For ready reference, the relevant portion of Section 375 of the IPC (punishable under Section 376 IPC) is extracted hereinbelow:- "**375. Rape.—** A man is said to commit "rape" if he— (a)penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or (b)inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or (c)manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or (d)applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under

			any of the following seven descriptions:— (First.)— Against her will. (Secondly.) — Without her consent. (Thirdly.) — With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt, (Fourthly.) — With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married. (Fifthly.) — With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent. (Sixthly.) — With or without her consent, when she is under eighteen years of age. (Seventhly.) — When she is unable to communicate consent. Explanation 1.— For the purposes of this section, "vagina" shall also include labia majora. Explanation 2.— Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act: Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity. Exception 1.— A medical procedure or intervention shall not constitute rape. Exception 2.— Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape." 9. Learned counsel for the revisionist also submits that sexual relation, which was alleged to be established between the revisionist and the complainant, was not against the will of the complainant, but, rather, it was a consensual relationship between the two mature adults. It is further submitted that two dates have been mentioned in the complaint i.e. 30.06.2023 and 15.08.2023, whereby physical relations

			were established between the revisionist and the complainant, but, the complaint was filed in the month of December, 2023 and that too for taking action against the revisionist under Section 12 of the Protection of Women from Domestic Violence Act. Thus, it is submitted that it is a case of consensual relationship between the two adults going sour and it does not attract the rigor of Section 376 IPC. 10. On this basis, learned counsel for the revisionist submits that the discharge application moved by the revisionist was rejected by learned District and Sessions Judge without application of mind and the charges under Section 376 of IPC were directed to be framed against the revisionist in a cursory manner. 11. *Per contra*, learned State Counsel submits that at the stage of framing of charge, the Court is only required to see whether a *prima facie* case exists against the accused based on the material on record and the Court is not expected to conduct a mini-trial or meticulously weigh the evidence at this threshold stage. 12. To this, learned counsel for the revisionist submits that though it is a settled proposition of law that a mini trial could not be permitted to be held before framing of charge, but, there should still be sufficient and legally sustainable material on record before the trial court concerned for framing of charges. 13. Be that as it may, it is apparent from the record that the parties are educated adults, who entered into a relationship voluntarily after meeting on a matrimonial website and they were mature enough to understand the consequences of their action and were

			possessed of sufficient understanding, maturity, and discernment to comprehend the nature and consequences of their actions. An educated and independent adult, upon entering into a consensual relationship, must also recognise that the law cannot be invoked to criminalize the mere failure of a relationship. The dissolution of a relationship, by itself, does not give rise to criminal liability. 14. As such, the two incidents of physical relationship mentioned in the FIR occurred while the parties were vacationing together at tourist destinations in Rishikesh and in Coorg alongside common friends. Furthermore, no protest or prompt action was taken by the complainant after these incidents. 15. Accordingly, the present criminal revision is allowed. The order dated 22.04.2025 passed by learned District and Sessions Judge, Pauri Garhwal in Sessions Trial No. 19 of 2024, State Vs. Kunal Bhakat is hereby set-aside. Consequently, the entire proceedings of Sessions Trial No. 19 of 2024, State Vs. Kunal Bhakat are hereby quashed qua the revisionist. **(Alok Mahra J.)** 09.10.2026 Ujjwal