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CONSENT IN THE CORNER OFFICE: FALSE PROMISES, POWER IMBALANCE, AND SECTION 69 BNS

~ Adv. Rajnandini Tukaram Gadge

INTRODUCTION

A senior corporate executive tells a woman employee that he can secure her promotion if she agrees to a sexual relationship with him. She agrees because of that promise, but the promotion never comes, and she is left facing judgment about her own character. Is this a consensual sexual relationship followed by a broken professional promise? Is it sexual harassment, or an abuse of workplace authority? Or does it amount to sexual intercourse obtained through deceitful means under Section 69 of the Bharatiya Nyaya Sanhita (BNS), 2023?

Section 69 of the BNS criminalize sexual intercourse obtained through deceitful means. It is a separate offence that extends beyond the familiar false promise to marry. It applies only where the act does not amount to rape. Its explanation specifically includes a false promise of employment or promotion. The provision is therefore directly relevant to workplace situations involving promised career advancement, and its statutory language has been reproduced and discussed in recent judicial decisions.

This article examines whether the mere failure to fulfill a promise of promotion can attract criminal liability, or whether Section 69 requires proof that the promise was false when made and that the deception induced the sexual relationship.

SECTION 69 BNS : FROM FALSE PROMISE TO CRIMINAL LIABILITY

Section 69 of the Bharatiya Nyaya Sanhita (BNS), 2023 punishes sexual intercourse with a woman obtained by deceitful means or by a promise to marry made without any intention of fulfilling it, where the act does not amount to rape, with up to ten years imprisonment and a

fine.¹ Its explanation states that deceitful means include an inducement or false promise of employment or promotion or marrying after suppressing identity. It is therefore wider than the familiar false promise to marry.

In law, deceit means giving false or misleading information intending another person to act as she would not have acted had she known the truth.² Intention is essential, and deception matters because a misled person does not consent freely.

A false promise is made without intending to fulfill it, whereas a failed promise may begin as a genuine commitment that later becomes impossible or undesirable to fulfill. The Supreme Court drew this line under the Indian Penal Code in *Pramod Suryabhan Pawar v. State of Maharashtra* (2019) and required a direct link between the false promise and her decision to engage in the sexual act.³ Under Section 28 BNS, a misconception of fact invalidates consent when the accused knows or has reason to believe it caused the consent, so in a false-promise case the misconception exists only if the promise was false when made.⁴

In the corporate context, therefore the relevant question is not simply whether the employee received the promised promotion. The inquiry must extend to the intention behind the representation whether the superior genuinely intended to secure the promotion or fabricated the promise to obtain sexual intercourse.

THE CORPORATE WORKPLACE: CONSENT, POWER AND SEXUAL HARASSMENT

That inquiry cannot be separated from its setting. In a corporate workplace, a senior manager controls a junior employee's appraisal, promotion, salary, career progression and job security. A hierarchy does not by itself eliminate an employee's capacity to consent, and not every relationship between a superior and a subordinate is non-consensual. Hierarchy becomes legally significant, however, when the superior uses professional advancement as leverage for sexual access, because the employee decides under pressure from someone who can give or withhold her career prospects. But agreement given under such pressure does not by itself make the conduct welcome.

¹ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 69 (India).

² Deceit, Black's Law Dictionary (8th ed. 2004).

³ *Pramod Suryabhan Pawar v. State of Maharashtra*, 2019 (3) SCC (Cri) 579 (India).

⁴ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 28 (India).

Workplace sexual harassment law addresses this leverage through the concept of quid pro quo, in which a sexual favour is linked to a professional benefit. The link is explicit when a superior says, “If you engage in a sexual relationship with me, I will recommend you for promotion.” In *Vishaka v. State of Rajasthan (1997)*, the Supreme Court held that sexual harassment at work violates Articles 14, 15, 19(1)(g) and 21 of the Indian Constitution.⁵ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) gave this framework statutory force. Section 3(2) of the POSH Act lists an implied or explicit promise of preferential treatment in employment among the circumstances that may amount to sexual harassment.⁶

This framework does not mean that every instance of sexual misconduct at work is an offence under Section 69 of BNS. The two frameworks ask different question. The POSH Act asks whether sexual harassment occurred in the workplace and provides for prevention and redressal. Section 69 asks whether sexual intercourse was obtained through deceitful means, including a false promise of promotion, and provides for criminal punishment. The first can be established without providing the deceit that the second requires.

FALSE PROMISE OR FAILED PROMISE? THE JUDICIAL TEST

The distinction between a false promise and a failed promise is important in determining criminal liability under Section 69 of the BNS. The question is not simply whether the promise was ultimately fulfilled, but whether the person making the promise had the intention to fulfill it at the time it was made.

The earlier judicial approach can be seen in *K.P. Thimmappa Gowda v. State of Karnataka*, where an adult woman had sexual relation with the accused following an assurance of marriage. She later became pregnant, but the accused refused to marry her and married another woman. The Supreme Court ultimately restored the acquittal of the accused, finding that the evidence reasonably supported the possibility of a consensual relationship and that the prosecution had not established rape beyond reasonable doubt. The case therefore shows that the subsequent failure to fulfill a promise does not, by itself, make a consensual sexual relationship criminal.⁷

⁵ INDIA CONST. art. 14; art. 15; art.19,cl.1(g); art.21.

⁶ *Vishaka v. State of Rajasthan*, A.I.R. 1997 S.C. 3011 (India).

⁷ *K.P. Thimmappa Gowda v. State of Karnataka*, (2011) 14 S.C.C. 475 (India).

The distinction was further explained by the Supreme Court in *Deepak Gulati v. State of Haryana*⁸ and *Pramod Suryabhan Pawar v. State of Maharashtra*⁹. A false promise is one made without the intention of fulfilling it from the beginning, whereas a genuine promise that is late not fulfilled is a breach of promise. The Court has also emphasized that there must be a direct connection between the false promise and the woman's decision to engage in sexual intercourse.

This principle becomes particularly relevant in the corporate workplace. If a senior executive genuinely intends to recommend an employee for promotion but the promotion is later refused by the management, the failure to secure the promotion cannot, by itself, establish deceit under Section 69 of BNS. However, if the executive never intended to recommend her and deliberately made the promise only to obtain sexual intercourse, the situation is different. Since Section 69 of BNS expressly includes a false promise of promotion within "deceitful means", such conduct may attract criminal liability if the statutory requirements are proved.

The Supreme Court's recent decision in *Kunal Rameshbhai Kalyani v. State of Gujarat* further reinforces this distinction. The Court held that Section 69 of BNS targets deceitful conduct and that a promise subsequently not fulfilled does not automatically establish the offence where the promise was made in good faith.¹⁰

Therefore, the important question is not merely whether the promised promotion was received. It is whether the promise was false when made and whether that deception induced the sexual relationship. The failure of a professional promise may amount to disappointment or even workplace misconduct, but criminal liability under Section 69 of BNS requires more than a promise that simply did not materialize.

SECTION 68, SECTION 69 AND POSH: DIFFERENT LEGAL CONCERNS

The same workplace conduct may potentially engage more than one legal framework, but these provision should not be treated as interchangeable. Each addresses a different legal concern and requires different ingredients.

Provision	Focus	Key requirement
Section 68 BNS	Sexual intercourse involving	Abuse of the position;

⁸ *Deepak Gulati v. State of Haryana*, (2013) 7 S.C.C. 675 (India).

⁹ *Pramod Suryabhan Pawar*, (3) SCC (Cri) at 579.

¹⁰ *Kunal Rameshbhai Kalyani v. State of Gujarat*, 2026 INSC 987 (India) (decided Sept. 7, 2026).

	abuse of a specified position of authority or fiduciary relationship in the circumstances stated in the provision.	woman in his custody, under his charge or present on the premises.
Section 69 BNS	Sexual intercourse obtained through deceitful means, including a false promise of employment or promotion.	Deceit existing when the promise was made; link to the woman's decision
POSH Act, 2013	Prevention, prohibition, inquiry and redressal of sexual harassment at the workplace	Unwelcome conduct, including a demand for sexual favours; no proof of deceit needed.

Consider the statement: “Have sex with me and I will promote you.” Such conduct may amount to sexual harassment under the POSH Act because section 2(n) includes a demand or request for sexual favours within the definition of sexual harassment.¹¹ More importantly, Section 3(2)(i) specifically recognizes an implied or explicit promise of preferential treatment in employment as a circumstance that may amount to sexual harassment.¹² A promise of promotion may therefore fall within broader statutory concept of preferential.

The same conduct may also raise a question under Section 69 BNS if the promise of promotion was deliberately false and was used to obtain sexual intercourse through deceitful means. The focus, however, is different. The POSH framework addresses sexual harassment in the workplace and provides a mechanism for complaint, inquiry and redressal, and Section 69 of BNS creates criminal liability when its specific statutory requirements are satisfied.

Section 68 of BNS may become relevant where the accused, being in a position of authority or a fiduciary relationship, abuses that position to induce or seduce a woman to have sexual intercourse, provided the other requirements of the provision are fulfilled.¹³ A superior-

¹¹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, § 2(n) (India).

¹² Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, § 3(2)(i) (India).

¹³ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 68 (India).

subordinate relationship should therefore not automatically be treated as sufficient to attract section 68 of BNS.

Thus, the same conduct may raise concern under workplace sexual-harassment law and criminal law, but the existence of workplace hierarchy, a sexual demand, or a failed promotion does not by itself establish liability under every provision.

PROTECTING WOMEN WITHOUT CRIMINALIZING EVERY BROKEN PROMISE

The discussion of Section 69 of BNS cannot be limited to whether a promise was fulfilled. It also raises concerns about a woman's dignity and the tendency of society to judge her character when sexual consent is connected with professional opportunity. A woman who consents because a person with professional influence promises employment or promotion should not automatically be judged for her decision. Similar concerns are often associated with the "casting couch" in the film industry and may arise in corporate workplace when professional advancement is linked to sexual demands.

Legal awareness also creates an important distinction. A woman who knows her rights may be better able to seek legal or institutional protection, while a woman with limited knowledge of law may remain unaware of available remedies and face social stigma, pressure and isolation. In extreme circumstances, such consequences can become devastating.

However, protection must not depend on judging a woman's character or level of awareness. Section 69 of BNS should protect against genuine deception while ensuring that every broken professional promise is not automatically treated as a criminal offence.

CONCLUSION

Section 69 of BNS creates an important legal safeguard where sexual intercourse is obtained through deceitful means, including a false promise of employment or promotion. In a corporate workplace, a superior who deliberately makes such a promise to obtain sexual intercourse may therefore raise both criminal law concerns under Section 69 of BNS and workplace sexual harassment concerns under the POSH Act, depending on the facts and the statutory requirements of each framework.

However, not every failed promise of promotion can be treated as an offence under Section 69 of BNS. The crucial question is whether the promise was deceptive when it was made and

whether that deception induced the sexual relationship. A genuine professional promise that later fails may cause disappointment or raise workplace concerns, but it does not automatically establish criminal deception.

The law must therefore protect women from exploitation while respecting adult consent and avoiding assumptions about their character. The real challenge for Section 69 of BNS is not to choose between protecting women and respecting adult consent, but to identify when consent has been obtained through legally recognizable deception: in the corner office, the decisive line should be drawn not at the disappointment of a broken promise, but at the deception that existed when the promise was made.