



## Section 69 of BNS 2023: Balancing Justice and Safeguards Against False Allegations in Cases of Sexual Intercourse by Deception

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KEYWORDS	ABSTRACT
Section 69 BNS 2023, Sexual Intercourse by Deception, Consent and Deception, Criminal Law Misuse, Legal Safeguards, False Promises of Marriage, Burden of Proof, Legal Reforms, False Allegations, Judicial Safeguards.	<p>The enactment of Section 69 of the Bharatiya Nyaya Sanhita (BNS), 2023, marks a significant shift in Indian criminal law by criminalizing sexual intercourse obtained through deceitful means. While the provision aims to protect individuals from fraudulent consent violations, it also raises concerns regarding the potential for misuse and false allegations. This research critically examines the scope, interpretation, and judicial challenges associated with Section 69, focusing on the delicate balance between safeguarding victims' rights and preventing wrongful prosecution.</p> <p>One of the primary concerns is the subjective nature of deception, particularly in cases involving false promises of marriage, misrepresentation of identity, or coercion through fraudulent means. Judicial precedents under Section 375 of the IPC (now replaced) have already seen debates over distinguishing genuine breaches of trust from criminal offenses. This study evaluates how Section 69 differs from previous laws, how courts might interpret deceit in sexual relationships, and what safeguards exist to prevent frivolous complaints.</p> <p>A comparative analysis with global legal frameworks, including laws from the United States, the United Kingdom, and Canada, provides insight into how other jurisdictions handle similar cases and whether India's legal system needs additional safeguards. Furthermore, the paper explores potential evidentiary challenges, the burden of proof, and the risk of reputational damage caused by false accusations.</p> <p>To ensure judicial fairness, this research suggests policy recommendations, including stricter evidentiary requirements, preliminary screening mechanisms, and clearer judicial guidelines for handling cases under Section 69. Ultimately, this paper aims to contribute to the ongoing legal discourse by advocating for a balanced approach one that upholds victim protection while preventing the weaponization of the law for malicious intent.</p>

### 1. Introduction

Section 69 of BNS 2023 marks a significant legal milestone in addressing the complexities

surrounding sexual consent and deception. With evolving societal values and heightened scrutiny over personal autonomy, this statute is crafted to

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balance justice for victims of deceptive practices while simultaneously providing robust safeguards against false allegations. By delineating clear standards for what constitutes deception in the context of sexual intercourse, Section 69 aims to ensure that only genuine cases of misrepresentation that vitiate true consent lead to legal repercussions, thereby protecting the rights of both victims and the accused.<sup>1</sup>

Historically, legal frameworks have struggled to capture the nuanced interplay between consent and deception. Traditional definitions often overlooked the impact of misleading representations on an individual's ability to provide informed consent, leaving victims without adequate recourse and exposing defendants to potential injustice. In response to these challenges, Section 69 introduces a refined legal approach that explicitly recognizes deception as a factor capable of invalidating consent. This modern interpretation not only redefines the parameters of sexual consent but also reflects a broader commitment to ensuring fairness in legal proceedings<sup>2</sup>. Scholars have observed that this reform offers a clearer, more just framework for adjudicating cases where deception undermines the integrity of personal interactions<sup>3</sup>.

In addition to protecting victims, Section 69 is meticulously designed to mitigate the risks associated with false allegations. The statute incorporates stringent evidentiary requirements, mandating that claims of deception be supported by compelling and verifiable proof before any legal action is initiated. This precaution is essential to prevent the potential misuse of the legal system,

where unfounded accusations could lead to unwarranted stigma and irreversible harm to an individual's reputation. By setting high evidentiary standards, the statute strives to preserve the integrity of judicial outcomes while maintaining public confidence in the fairness of the legal process<sup>4</sup>.

Furthermore, Section 69 aligns domestic legal standards with international trends that emphasize both victim protection and the safeguarding of individual rights. Comparative studies indicate that jurisdictions adopting similar measures have successfully navigated the delicate balance between ensuring justice for those deceived and protecting against the exploitation of legal mechanisms for personal vendettas. The adoption of such balanced provisions underscores a commitment to upholding human dignity and ensuring that legal processes remain transparent and equitable<sup>5</sup>.

In summary, Section 69 of BNS 2023 represents a forward-thinking legislative response to the challenges posed by deception in cases of sexual intercourse. By clearly defining the parameters of consent and deception, and by instituting rigorous safeguards against false claims, the statute exemplifies a dual commitment to justice and fairness. As debates surrounding consent continue to evolve in tandem with societal values, the provisions of Section 69 serve as a model for integrating legal reform with ethical considerations, ultimately advancing the cause of both victim protection and the prevention of unwarranted legal proceedings<sup>6</sup>.

Legal practitioners and scholars agree that continuous empirical research and critical review are essential to ensure Section 69 remains balanced, equitable, and adaptable to the evolving complexities of sexual consent and deception in practice.

## **2. Objectives:**

2.1 To analyse the scope, applicability, and legal interpretation of Section 69 of the Bharatiya Nyaya Sanhita (BNS) 2023 in cases of sexual intercourse by deception.

2.2 To examine the safeguards under Section 69 to prevent false allegations while ensuring justice for victims.

2.3 To assess Section 69 in comparison with previous IPC provisions and international legal frameworks to identify areas for legal and procedural reforms.

## **3. Statement of the Problem:**

Sexual intercourse obtained through deception is a complex legal issue, requiring a balance between protecting victims and preventing false accusations. Section 69 of the BNS 2023 attempts to address this concern by criminalizing deceitful inducement for sexual relations. However, concerns arise regarding the potential misuse of this provision, leading to wrongful prosecutions and reputational harm. The challenge lies in distinguishing genuine cases of deception from frivolous claims while ensuring justice is served fairly. This research aims to critically analyse Section 69's effectiveness in achieving this balance and suggest improvements where necessary.

## **4. Research Questions:**

4.1 What is the scope and applicability of Section 69 of the BNS 2023 in cases of sexual intercourse by deception?

4.2 How effective are the safeguards under Section 69 in preventing false allegations while ensuring justice for victims?

4.3 How does Section 69 compare with previous IPC provisions and international legal frameworks, and what reforms are necessary for its better implementation?

## **5 Hypotheses:**

### **Hypothesis 1**

- **Null Hypothesis ( $H_0$ ):** Section 69 of the BNS 2023 does not provide a clearer legal framework for addressing sexual intercourse by deception compared to previous IPC provisions.
- **Alternative Hypothesis ( $H_1$ ):** Section 69 of the BNS 2023 provides a clearer and more structured legal framework for addressing sexual intercourse by deception compared to previous IPC provisions.

### **Hypothesis 2**

- **Null Hypothesis ( $H_0$ ):** The safeguards under Section 69 are sufficient to prevent false allegations and do not lead to potential misuse.
- **Alternative Hypothesis ( $H_1$ ):** The safeguards under Section 69 are not sufficient to prevent false allegations, leading to potential misuse.

### **Hypothesis 3**

- **Null Hypothesis ( $H_0$ ):** A comparative analysis with IPC and international laws

does not reveal significant gaps in Section 69, and no major legal or procedural reforms are required.

- **Alternative Hypothesis (H<sub>1</sub>):** A comparative analysis with IPC and international laws reveals gaps in Section 69, highlighting the need for legal and procedural reforms.

## 6. Research Methodology:

### 6.1 Research Design:

The study adopts a **doctrinal legal research** approach, analysing statutory provisions, judicial interpretations, and comparative legal frameworks. A qualitative research method will be employed to assess the scope, applicability, and effectiveness of Section 69 of the Bharatiya Nyaya Sanhita (BNS) 2023.

### 6.2 Nature of Study:

This research is **descriptive and analytical**, focusing on the legal principles governing sexual intercourse by deception, the safeguards against false allegations, and the comparative study of similar laws in India and other jurisdictions.

### 6.3 Sources of Data Collection:

The study relies on primary and secondary sources of data:

- **Primary Sources**
  - Bharatiya Nyaya Sanhita (BNS) 2023, particularly Section 69.
  - Previous legal provisions under the Indian Penal Code (IPC), 1860.
  - Judicial decisions and case laws interpreting Section 69.

- Constitutional provisions related to fundamental rights and legal safeguards.

- **Secondary Sources**

- Commentaries, textbooks, and research articles on criminal law.
- Law commission reports and legislative debates on BNS 2023.
- Comparative legal studies on similar provisions in international jurisdictions.
- Empirical studies and reports on false allegations in sexual offenses.

### 6.4 Research Questions and Hypotheses Testing:

The study will analyse the research questions and test the hypotheses through doctrinal analysis, case law review, and comparative legal study. The null and alternative hypotheses will be examined based on statutory interpretation, judicial reasoning, and legal critiques.

### 6.5 Comparative Legal Analysis:

A comparative study will be conducted with:

- **Previous IPC provisions** to understand the legislative shift in criminalizing sexual intercourse by deception.
- **International legal frameworks** (e.g., UK, USA, Canada) to assess best practices in balancing justice and safeguards against false allegations.

### 6.6 Data Analysis Method:

- **Qualitative content analysis** will be used to examine statutory provisions, judicial decisions, and scholarly opinions.
- **Case law analysis** will help evaluate judicial interpretations of deception-based sexual offenses.

- **Comparative analysis** will provide insights into legal reforms necessary for balancing justice and preventing misuse.

## **7. Review of Literature:**

Section 69 of the Bharatiya Nyaya Sanhita (BNS) 2023 replaces certain provisions of the Indian Penal Code (IPC), 1860, to criminalize sexual intercourse by deception. This provision aims to address instances where consent is obtained through fraud, misrepresentation, or false promises. However, concerns regarding potential misuse and false allegations raise critical legal and ethical debates. A review of existing legal literature, judicial precedents, and comparative studies will help evaluate the balance between justice for victims and safeguards against wrongful accusations.

### **7.1 Literature Regarding Evolution of the Law on Sexual Intercourse by Deception in India:**

The concept of deception-induced consent was previously addressed under Section 375 IPC, which defined rape and included an exception for cases where consent was obtained through fraudulent means. The Supreme Court of India has interpreted this provision in several landmark judgments. In *Uday v. State of Karnataka*, the Court observed that a false promise of marriage may not always vitiate consent unless it was made with an intention to deceive from the outset<sup>7</sup>. Similarly, in *Deepak Gulati v. State of Haryana*, the Court distinguished between a false promise and a breach of promise, holding that deception must be established to constitute an offense under Section 375 IPC<sup>8</sup>.

With the introduction of Section 69 of BNS 2023,

there is a shift in legal interpretation, aiming to provide a structured framework for addressing deception-based sexual offenses. However, the provision's broad scope raises concerns regarding wrongful accusations, necessitating a careful examination of legal safeguards.

### **7.2 Literature Regarding Judicial Interpretation of Sexual Intercourse by Deception:**

Several Indian courts have adjudicated cases involving consent obtained by fraud. In *Pramod Suryabhan Pawar v. State of Maharashtra*, the Supreme Court held that if a man induces a woman to engage in sexual relations by making a false promise of marriage without any intention to fulfil it, the act may constitute rape<sup>9</sup>. However, in *Anurag Soni v. State of Chhattisgarh*, the Court reinforced that fraudulent intent must exist at the time of making the promise<sup>10</sup>.

Judicial interpretations highlight a nuanced approach, where courts assess the mens rea (intention) of the accused. Critics argue that while courts have provided clarity, inconsistent application of legal principles leads to contradictory verdicts. Section 69 of BNS 2023 attempts to codify these judicial precedents, but its effectiveness in preventing false allegations remains a concern.

### **7.3 Literature Regarding Analysis of Legal Safeguards Against False Allegations:**

A major critique of deception-based sexual offenses is the potential misuse of legal provisions for personal vendettas or coercion. Several legal scholars argue that laws on sexual offenses must balance victim protection with safeguards for the



accused. Dr. K.D. Gaur, in his commentary on criminal law, emphasizes that false allegations in rape cases can irreversibly damage reputations, highlighting the need for stricter evidentiary standards<sup>11</sup>.

The Justice J.S. Verma Committee Report (2013), which recommended reforms post-Nirbhaya case, also cautioned against ambiguous definitions of consent and deception<sup>12</sup>. The committee stressed that while victims must be protected, laws should not become tools for false accusations. Similarly, Prof. G.B. Reddy, in his legal commentary, argues that proving fraudulent intent beyond reasonable doubt is essential to prevent misuse<sup>13</sup>.

The judiciary has acknowledged these concerns in various rulings. In *Mahesh Balkrishna Dange v. State of Maharashtra*, the Bombay High Court reiterated that vague allegations of deception must be scrutinized thoroughly to prevent wrongful convictions<sup>14</sup>. The introduction of Section 69 BNS 2023 must therefore be examined in light of these judicial safeguards.

#### **7.4 Literature Regarding Comparative Legal Analysis: India and International Jurisdictions:**

Globally, legal systems address sexual deception with varying degrees of strictness. In the United Kingdom, deception as a ground for sexual offense is governed by the Sexual Offenses Act, 2003, where fraudulent misrepresentation negates consent in limited cases<sup>15</sup>. Similarly, in the United States, courts have held in *People v. Evans* that consent obtained by fraud may constitute rape, but only in specific circumstances<sup>16</sup>.

Legal scholars argue that Indian law takes a

broader approach, potentially leading to overcriminalization of certain relationships<sup>17</sup>. Prof. B.B. Pande (Supra), in his comparative study, notes that while India's approach ensures victim protection, it may also criminalize private consensual relationships where deception is difficult to establish objectively. Section 69 BNS 2023 must therefore be evaluated against these international standards to ensure a balanced legal framework.

#### **7.5 Literature Regarding Empirical Studies on False Allegations in Sexual Offenses:**

Empirical research highlights the complexities of false allegations in sexual offense cases. A study conducted by Dr. Anuja Agrawal (2021) on "False Accusations in Rape Cases in India" found that 10-15% of reported cases involved false or exaggerated claims, often due to personal disputes, coercion, or family pressure<sup>18</sup>.

Another study by the National Crime Records Bureau (NCRB) reported that between 2018 and 2022, nearly 25% of rape cases resulted in acquittal due to lack of evidence or false complaints<sup>19</sup>. These findings reinforce the need for safeguards in laws like Section 69 BNS 2023.

#### **7.6 Literature Regarding Challenges and Potential Legal Reforms:**

Despite its intent, Section 69 BNS 2023 faces **challenges in implementation**, including:

- **Burden of proof:** Proving fraudulent intent is legally complex.
- **Ambiguity in consent:** Courts may struggle to differentiate genuine deception from relationship disputes.

- **Risk of misuse:** Without adequate safeguards, false allegations may rise.

In nutshell, the review of literature highlights that Section 69 of BNS 2023 introduces a necessary framework for addressing sexual intercourse by deception. However, judicial interpretations, empirical studies, and comparative legal analyses indicate significant challenges, particularly regarding false allegations and evidentiary safeguards. The provision must be interpreted cautiously to uphold both victim protection and accused rights, ensuring a balanced and fair criminal justice system.

## **8. Legislative Gaps:**

The enactment of Section 69 of the Bharatiya Nyaya Sanhita (BNS) 2023 aims to criminalize sexual intercourse obtained through deception. While the provision attempts to offer clarity on cases where consent is vitiated by fraud, it also raises concerns regarding its scope, evidentiary challenges, and potential for misuse. Several legislative gaps remain unaddressed, which could impact its practical implementation and fairness in the criminal justice system. These are as under-

### **8.1 Ambiguity in Defining 'Deception':**

One of the major legislative gaps in Section 69 of BNS 2023 is the lack of a precise definition of 'deception' in the context of sexual offenses. The provision does not specify whether deception includes:

- False promises of marriage,
- Misrepresentation of identity,
- Fraudulent inducement based on financial, social, or religious status, or

- Other forms of misleading conduct that influence consent.

Judicial interpretation that deception must be established beyond doubt, but there is no uniform standard in law. This ambiguity may lead to inconsistent judicial interpretations, increasing the risk of both over-criminalization and wrongful acquittals<sup>20</sup>.

### **8.2 Absence of Clear Evidentiary Standards:**

Another critical gap is the lack of clear evidentiary requirements to prove deception in cases under Section 69. The burden of proof in criminal law rests on the prosecution, but deception-based offenses often involve conflicting narratives, making it difficult to determine whether:

- The accused intended to deceive at the time of the act, or
- The complainant misunderstood the accused's intentions.

Case laws like Deepak Gulati (Supra) emphasize that mere failure to fulfil a promise of marriage does not constitute rape unless fraudulent intent existed at the outset. However, the law does not specify what type of evidence is required to distinguish genuine deception from a breach of trust. This legislative gap increases the likelihood of subjective interpretations and inconsistent verdicts.

### **8.3 Lack of Protection Against False Allegations:**

While the law aims to protect victims of deception, it does not include safeguards against false or malicious complaints. Studies, such as those conducted by the National Crime Records Bureau

(NCRB), indicate that a significant percentage of rape cases in India are dismissed due to lack of evidence or false accusations. Section 69 does not provide:

- Stringent pre-trial scrutiny mechanisms to filter out baseless allegations.
- Legal consequences for false complainants, beyond the general provisions for perjury or defamation.
- Provisions for anticipatory bail, which could prevent unnecessary arrests based on weak evidence.

Judicial precedents highlight the misuse of sexual offense laws, emphasizing the need for greater judicial oversight. Without built-in safeguards, Section 69 may be misused for personal vendettas, extortion, or coercion<sup>21</sup>.

#### **8.4 Lack of Differentiation Between Deception and Breach of Trust:**

There is no clear distinction in Section 69 BNS 2023 between:

- Fraudulent inducement (where deception negates consent), and
- A mere breach of trust (where a person willingly enters into a relationship that later fails).

For example, in *Uday* (Supra) the Supreme Court held that a mere breach of a promise to marry does not automatically amount to rape. However, under the broad wording of Section 69, even a misunderstanding or an eventual relationship breakdown could be criminalized, leading to legal uncertainty.

#### **8.5 Absence of a Graded Punishment System:**

Unlike many other international legal systems, Indian law does not provide a graded punishment system for offenses based on deception. Under UK's Sexual Offenses Act, 2003, for example, different types of fraudulent inducement carry different penalties. In contrast, Section 69 BNS 2023 does not differentiate between:

- Serious deception (identity fraud, coercion), and
- Minor deception (misrepresentation of intentions in relationships).

A one-size-fits-all punishment may lead to disproportionate sentences, failing to consider the varying degrees of culpability in deception cases.

#### **8.6 Lack of Harmonization with International Legal Standards:**

Compared to laws in countries like the UK, USA, and Canada, Section 69 lacks specificity in defining sexual deception. In the USA (California Penal Code Section 261.5), deception is criminalized only in specific circumstances (e.g., impersonation). However, Indian law takes a broader approach, which could lead to over-criminalization of personal disputes.

Scholars such as Prof. B.B. Pande (Supra) in his comparative legal studies argue that Indian law must incorporate international best practices, ensuring a fair balance between victim rights and accused safeguards.

#### **8.7 Need for Judicial Discretion and Guidelines:**

Finally, Section 69 lacks judicial guidelines for courts to determine:

- What constitutes deception sufficient to negate consent.



- What degree of deception warrants criminal liability.
- What evidentiary thresholds must be met.

Without clear judicial guidelines, lower courts may interpret Section 69 inconsistently, leading to varying outcomes in similar cases.

In totality, while Section 69 of BNS 2023 is a step towards recognizing sexual offenses committed through deception, its legislative gaps raise significant concerns. The law fails to define deception comprehensively, lacks clear evidentiary standards, and does not provide safeguards against false allegations. Moreover, its broad scope risks criminalizing private relationships, potentially leading to judicial inconsistencies.

### **9. Verification of the Hypothesis No. 1:**

The hypothesis testing on Section 69 of the Bharatiya Nyaya Sanhita (BNS) 2023 in relation to sexual intercourse by deception has revealed both legal advancements and persistent ambiguities. The null hypothesis ( $H_0$ ) proposed that Section 69 does not provide a clearer legal framework compared to previous provisions under the Indian Penal Code (IPC), whereas the alternative hypothesis ( $H_1$ ) suggested that Section 69 establishes a more structured legal framework to address deception in sexual relationships.

A critical evaluation of scope, applicability, and judicial interpretation under Section 69 and its comparison with previous IPC provisions and global legal standards provides insights into whether the provision enhances legal clarity or retains ambiguities.

### **9.1 Does Section 69 Provide a Clearer Legal**

### **Framework?**

The alternative hypothesis ( $H_1$ ) suggests that Section 69 of BNS 2023 improves upon IPC provisions by explicitly criminalizing sexual intercourse obtained through deception. Under the IPC framework, deception-related sexual offenses were primarily addressed under Section 375 (rape) read with Section 90 (misconception of fact). Courts often struggled with interpretation and applicability, leading to inconsistent verdicts.

For example, the Supreme Court ruled that a false promise of marriage constitutes rape only if the accused never intended to marry the complainant at the time of consent<sup>22</sup>. Similarly, the Court distinguished false promises from genuine relationship failures, requiring a high threshold of proof for deception claims<sup>23</sup>.

Section 69 seeks to codify such judicial precedents into statutory law, potentially offering greater clarity by specifically recognizing sexual intercourse by deception as a distinct offense. This supports the alternative hypothesis ( $H_1$ ) that the new provision enhances legal certainty compared to the case-dependent approach under IPC.

### **9.2 Persistent Ambiguities and Challenges:**

Despite its statutory recognition, Section 69 fails to comprehensively define deception or establish clear evidentiary requirements, making its application subjective. This supports the null hypothesis ( $H_0$ ) by indicating that Section 69, while an improvement, does not necessarily resolve interpretational challenges. Key concerns include:

- **Ambiguity in deception definition:** The provision does not specify whether all false

promises amount to deception or if certain types (e.g., financial inducement) are excluded.

- **Burden of proof:** It remains unclear whether the prosecution must prove intentional fraud **beyond reasonable doubt**, or if the accused must disprove deception.
- **Potential for misuse:** Without safeguards, retrospective allegations in failed relationships may lead to wrongful prosecution, a concern previously highlighted<sup>24</sup>.

Thus, while Section 69 provides a clearer framework in principle, its lack of precise definitions and procedural safeguards weakens its effectiveness, partially validating the null hypothesis ( $H_0$ ).

### 9.3 Comparison with International Laws:

When assessed against global legal standards, Section 69 falls short of providing a comprehensive legal framework. Jurisdictions such as the UK and the US have established clearer statutory distinctions between fraudulent misrepresentation (false promises) and identity deception (impersonation).

For example:

- The UK's Sexual Offenses Act, 2003 specifically criminalizes deception-based consent violations, explicitly distinguishing identity fraud from broken promises.
- The California Penal Code (US) differentiates between fraud in factum (deception regarding the act itself) and

fraud in inducement (deception regarding circumstances).

Section 69 does not incorporate such specific classifications, making its applicability broader but less precise, reinforcing elements of the null hypothesis ( $H_0$ ).

### 9.4 Final Assessment: Rejecting or Accepting the Hypothesis:

Based on this analysis, the null hypothesis ( $H_0$ ) is rejected, but the alternative hypothesis ( $H_1$ ) is only partially validated. While Section 69 of BNS 2023 improves upon IPC provisions, providing statutory recognition to deception-based sexual offenses, it still lacks clarity in defining deception and procedural safeguards against misuse.

To ensure that Section 69 truly provides a structured legal framework, the following reforms are recommended.

- Explicit statutory definitions of deception in sexual offenses.
- Evidentiary thresholds to prevent false allegations.
- Judicial guidelines for consistent interpretation.
- Safeguards for accused persons, including penalties for false complaints.

In its current form, Section 69 represents progress but remains incomplete, necessitating further legislative and judicial refinements to ensure it effectively balances justice with protections against wrongful accusations.

### 10. Verification of Hypothesis No. 2:

The verification of the given hypotheses regarding Section 69 of the Bharatiya Nyaya Sanhita (BNS)

2023 requires an analysis of whether the provision includes adequate safeguards to prevent false allegations and potential misuse.

The null hypothesis ( $H_0$ ) assumes that the safeguards in Section 69 are sufficient to prevent misuse, while the alternative hypothesis ( $H_1$ ) suggests that the safeguards are inadequate, leading to the risk of false accusations and wrongful prosecution.

### **10.1 Examining the Safeguards in Section 69:**

Section 69 of BNS 2023 criminalizes sexual intercourse by deception, recognizing that consent obtained through fraudulent means is legally invalid. However, the provision must also ensure that genuine cases of fraud are prosecuted while preventing frivolous or false allegations.

#### **Potential safeguards in the legal system include:**

1. **Burden of Proof:** The prosecution is generally required to prove beyond a reasonable doubt that deception occurred.
2. **Judicial Interpretation:** Courts analyse intention, circumstances, and evidence to distinguish genuine deception from retrospective claims in failed relationships.
3. **Legal Precedents:** Courts have historically set a high threshold for deception claims, such as in *Pramod Suryabhan Pawar v. State of Maharashtra* (2019) 9 SCC 608, where the Supreme Court held that false promises of marriage amount to rape only if dishonesty existed at the outset.

While these factors indicate some level of safeguard, they do not completely prevent misuse, thereby challenging the validity of the null

hypothesis ( $H_0$ ).

### **10.2 Risks of False Allegations and Misuse:**

Despite existing procedural safeguards, several issues raise concerns about potential misuse of Section 69:

#### **1. Absence of Clear Definition of Deception:**

- Section 69 does not specify what constitutes deception, leaving subjective interpretation to the judiciary.
- The lack of clarity could lead to expanded interpretations, making it easier to level allegations in failed relationships without strong legal scrutiny.

#### **2. Retrospective Allegations in Failed Relationships:**

- Courts have frequently dealt with cases where consent is later challenged due to disputes arising after the relationship ends.
- For example, in *Mahesh Balkrishna Dange v. State of Maharashtra* (2007) CrLJ 2957 (Bom), concerns were raised about misuse of sexual offense laws in disputes over failed marriage promises.

#### **3. Potential for False Cases Due to Social and Personal Motives:**

- Studies have shown that false allegations in sexual offenses, though not the majority, do occur in cases of personal enmity, coercion, or emotional retaliation.
- Without stringent safeguards, wrongful prosecution could occur, violating due process and fairness principles.

#### **4. Lack of Penal Consequences for False Allegations:**

- The law does not explicitly prescribe penalties for knowingly filing false claims under Section 69, which could encourage frivolous litigation.

These factors support the alternative hypothesis ( $H_1$ ) that Section 69 lacks sufficient safeguards, allowing room for misuse and false allegations.

### **10.3 Comparative Analysis with Global Legal Frameworks:**

A comparative approach highlights how other jurisdictions implement safeguards to prevent wrongful accusations:

- **United Kingdom:** The Sexual Offenses Act, 2003 categorizes deception-based offenses and requires strong evidentiary standards for conviction.
- **United States:** Laws in California and New York differentiate between fraud in factum (misrepresentation of the act itself) and fraud in inducement (false promises or external deception).
- **France and Germany:** Their legal frameworks include strict penalties for false accusations, ensuring balanced justice.

Section 69 does not explicitly adopt these protective measures, reinforcing the alternative hypothesis ( $H_1$ ) that its safeguards are insufficient to prevent misuse.

### **10.4 Conclusion: Accepting or Rejecting the Hypothesis:**

Based on this verification, the null hypothesis ( $H_0$ ) is rejected, and the alternative hypothesis ( $H_1$ ) is accepted. The analysis indicates that while Section 69 provides statutory recognition to deception-

based sexual offenses, it does not include sufficient safeguards to prevent:

- False allegations arising from failed relationships.
- Subjective interpretation due to vague definitions.
- Misuse for personal or retaliatory motives.

To address these concerns, reforms such as:

- A precise definition of deception in sexual offenses.
- Strict evidentiary requirements to distinguish genuine cases.
- Penalties for false allegations to deter misuse.

are necessary to strengthen legal safeguards and ensure fair application of Section 69.

### **11. Verification of Hypothesis NO.3:**

To verify the given hypotheses regarding Section 69 of the Bharatiya Nyaya Sanhita (BNS) 2023, a comparative analysis with previous IPC provisions and international laws is necessary. The key objective is to determine whether Section 69 contains legal gaps that require reforms, or if it already provides a comprehensive framework without the need for major modifications.

The null hypothesis ( $H_0$ ) asserts that there are no significant gaps in Section 69 compared to IPC and international laws, meaning no major legal or procedural reforms are necessary. The alternative hypothesis ( $H_1$ ) argues that a comparative analysis does reveal legal gaps, demonstrating the need for reforms.

#### **11.1 Comparison with IPC Provisions:**

Section 69 of BNS 2023 replaces the earlier provisions of the Indian Penal Code (IPC) that

dealt with deception-based sexual offenses, primarily covered under:

- Section 375 (Rape) read with Section 90 (Consent obtained by misconception of fact).
- Judicial interpretations on sexual intercourse obtained through false promises of marriage, identity deception, and fraudulent misrepresentation.

11.2 Key Improvements Under Section 69:

- **Codification of Deception-Based Sexual Offenses:** Section 69 explicitly recognizes sexual intercourse by deception as an offense, which was earlier developed through case law interpretations.
- **Legal Clarity Over Judicial Ambiguity:** Under IPC, deception-based cases were often subject to varying judicial interpretations, making legal enforcement inconsistent. Section 69 attempts to streamline these cases.

11.3 Gaps and Issues in Comparison to IPC:

**Lack of Clear Definition of "Deception":** Section 69 does not precisely define what types of deception are covered false promises of marriage, financial misrepresentation, impersonation, or emotional manipulation?

**11.4 Absence of Evidentiary Standards:** IPC-based case laws (e.g., Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 SCC 608) set high evidentiary thresholds for proving fraud. Section 69 does not establish specific proof requirements, leading to potential misuse or wrongful allegations. These gaps support the alternative hypothesis (H<sub>1</sub>) that Section 69 is not entirely sufficient and requires refinements.

11.5 Comparison with International Legal Frameworks:

Examining laws in other jurisdictions provides further insight into whether Section 69 aligns with global best practices.

Jurisdiction	Legal Provisions on Deception-Based Sexual Offenses	Comparison with Section 69 of BNS 2023
United Kingdom	The Sexual Offenses Act, 2003 categorizes different types of deception (identity fraud, fraudulent inducement, etc.).	Section 69 lacks similar categorization of deception types, leading to ambiguity.
United States (California)	Differentiates between fraud in factum (deception about the nature of the act) and fraud in inducement (deception about external factors like marriage promises).	Section 69 does not distinguish between these forms of deception, leading to potential misinterpretation by courts.
France & Germany	Require strong evidentiary thresholds and impose strict penalties for false	Section 69 does not explicitly establish safeguards against misuse, increasing risk of false cases.



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11.6 Findings from Comparative Analysis:

- Many international laws provide a more structured framework, clearly distinguishing between types of deception and setting stronger evidentiary requirements.
- Section 69 remains vague in its scope and applicability, lacking statutory safeguards against wrongful allegations.

These observations strongly support the alternative hypothesis (H<sub>1</sub>) that gaps exist in Section 69 compared to international laws, necessitating legal and procedural reforms.

11.7 Identified Legal and Procedural Gaps in Section 69:

After analysing IPC and international legal frameworks, the following critical gaps are evident in Section 69:

1. **Ambiguity in Scope of Deception:**
  - Section 69 does not explicitly define whether deception includes false promises of marriage, impersonation, financial fraud, or emotional manipulation.
  - Recommendation: The provision should clearly classify specific types of deception to prevent misuse and misinterpretation.
2. **Absence of Evidentiary Standards:**
  - Unlike global laws that set strict proof requirements, Section 69 lacks clear procedural safeguards for proving deception.

3. **Lack of Protection Against False Allegations:**

- International laws include penalties for false claims, but Section 69 does not address this issue, increasing risks of misuse.
- Recommendation: Introduce punitive measures for deliberate false accusations, ensuring a balanced legal framework.

These gaps support the alternative hypothesis (H<sub>1</sub>), reinforcing the need for targeted legal and procedural reforms.

11.8 Conclusion: Accepting or Rejecting the Hypothesis:

Based on this verification, the null hypothesis (H<sub>0</sub>) is rejected, and the alternative hypothesis (H<sub>1</sub>) is accepted.

A comparative analysis with IPC and international legal frameworks reveals gaps in Section 69, demonstrating the need for legal and procedural reforms. While the provision improves upon IPC by codifying deception-based offenses, it lacks specificity, evidentiary safeguards, and protections against misuse.

11.9 Recommendations for Reform:

- **Clearly Define "Deception" in the Law** – Classify types of fraudulent misrepresentation (identity, marriage, financial deception, etc.).

- **Establish Strong Evidentiary Standards** – Require corroborative proof to prevent frivolous allegations.
- **Introduce Safeguards Against False Accusations**– Implement penalties for deliberate misuse to ensure fairness in legal proceedings.

Thus, Section 69 of BNS 2023 requires refinement and procedural improvements to align with global legal standards while ensuring justice for genuine victims and protection against wrongful prosecutions.

## **12. Conclusion:**

Section 69 of the Bharatiya Nyaya Sanhita (BNS) 2023 marks a significant legal development by codifying sexual intercourse by deception as a distinct offense. It aims to address situations where consent is obtained through fraudulent means, thereby enhancing legal clarity compared to the previous Indian Penal Code (IPC) provisions. However, while the provision strengthens protections for victims, concerns remain regarding its scope, applicability, and potential for misuse.

A critical analysis reveals that Section 69 lacks a precise definition of "deception," leaving ambiguity about what constitutes fraudulent consent—whether false promises of marriage, impersonation, financial fraud, or emotional manipulation are included. Additionally, the provision does not establish clear evidentiary thresholds, which may lead to wrongful convictions or frivolous cases based on weak or unverified claims. Comparatively, international

legal frameworks, such as the UK Sexual Offenses Act, 2003 and US state laws, provide more structured distinctions between different forms of deception, offering better legal clarity and procedural safeguards.

Another key concern is the absence of explicit safeguards against false allegations. While the law rightfully protects victims of deception-based offenses, it does not include countermeasures such as punitive consequences for malicious complaints, which are found in several global legal systems. This omission raises the risk of misuse, potentially leading to wrongful prosecutions and reputational harm.

Thus, while Section 69 represents a progressive step in India's legal framework, targeted reforms are necessary to ensure a fair balance between protecting genuine victims and safeguarding against misuse. Defining deception more precisely, setting clear evidentiary standards, and incorporating safeguards against false accusations will help achieve a just and balanced legal framework that upholds both justice and due process.

## **13. Recommendations for Reform:**

1. **Clarify the definition of deception** – Specify whether it includes false promises, identity fraud, or financial misrepresentation.
2. **Introduce evidentiary safeguards** – Mandate corroborative evidence before filing an FIR.
3. **Include safeguards against false complaints** – Introduce pre-trial scrutiny

mechanisms and penalties for false allegations.

4. **Differentiate between deception and breach of trust** – Ensure that not all failed relationships are criminalized.
5. **Adopt a graded punishment system** – Provide proportionate sentencing based on the severity of deception.
6. **Align with international best practices** – Study UK, US, and Canadian laws to refine India's legal framework.
7. **Establish judicial guidelines** – Empower courts with clear criteria for assessing deception cases.

These reforms are essential to prevent misuse, ensure justice for victims, and protect the rights of the accused, making Section 69 of BNS 2023 more effective and balanced.

## 14 References:

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<sup>1</sup> The importance of balancing victim redress with procedural safeguards has been a subject of recent legislative debates

<sup>2</sup> For a discussion on modern interpretations of consent, see Johnson, A. (2023). *Consent in the Modern Era*.

<sup>3</sup> See Martinez, L. (2022). *Deception and Consent: Legal Challenges*.

<sup>4</sup> Refer to Smith, R. (2023). *Evidentiary Standards in Sexual Consent Cases*.

<sup>5</sup> Comparative analyses in international law journals highlight similar reforms across jurisdictions.

<sup>6</sup> Comprehensive reviews in legal periodicals have emphasized the dual commitment inherent in Section.

<sup>7</sup> Uday v. State of Karnataka, (2003) 4 SCC 46.

<sup>8</sup> Deepak Gulati v. State of Haryana, (2013) 7 SCC 675.

<sup>9</sup> Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 SCC 608.

<sup>10</sup> Anurag Soni v. State of Chhattisgarh, (2019) 13 SCC 1.

<sup>11</sup> K.D. Gaur, *Textbook on Indian Penal Code* (6th ed., 2022).

<sup>12</sup> Justice J.S. Verma Committee Report on Criminal Law Amendments (2013).

<sup>13</sup> G.B. Reddy, *Principles of Criminal Law* (10th ed., 2021).

<sup>14</sup> Mahesh Balkrishna Dange v. State of Maharashtra, (2007) CrLJ 2957 (Bom).

<sup>15</sup> UK Sexual Offences Act, 2003, Section 76.

<sup>16</sup> People v. Evans, 85 Misc.2d 1088 (NY Sup. Ct. 1976).

<sup>17</sup> B.B. Pande, *Comparative Criminal Law* (2019).

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<sup>18</sup> Anuja Agrawal, "False Accusations in Rape Cases in India: A Critical Study," *Indian Journal of Law and Society*, Vol. 8, 2021.

<sup>19</sup> National Crime Records Bureau (NCRB) Report, 2022

<sup>20</sup> Pramod Suryabhan Pawar v. State of Maharashtra [(2019) 9 SCC 608]

<sup>21</sup> Supra, 14

<sup>22</sup> Supra, 9

<sup>23</sup> Supra, 8

<sup>24</sup> Mahesh Balkrishna Dange v. State of Maharashtra [(2007) CrLJ 2957 (Bom)].