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OFFENCES RELATING TO MARRIAGE IN INDIA: A DOCTRINAL AND SOCIO-LEGAL ANALYSIS OF STATUTORY FRAMEWORK AND JUDICIAL TRENDS

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I. ABSTRACT

This study examines the doctrinal and socio-legal framework governing offences relating to marriage in India, with particular focus on the statutory consolidation introduced by the Bharatiya Nyaya Sanhita, 2023 and its interaction with procedural and evidentiary regimes. Marriage is analysed not merely as a personal or cultural institution but as a legally regulated status that generates enforceable rights and corresponding vulnerabilities. The paper maps the statutory architecture covering deception-based relationships, bigamy, fraudulent ceremonies, cruelty, and inducement offences, and situates them within a broader enforcement matrix shaped by the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023. It argues that matrimonial offences function as a composite regulatory domain rather than isolated penal provisions, requiring courts to engage simultaneously with questions of civil marital status, criminal intent, and evidentiary reliability. Judicial precedents reveal a calibrated interpretive approach that balances victim protection with safeguards against misuse, particularly through strict proof requirements and intention-based tests. The analysis concludes that effective enforcement depends on integrated statutory reading, digital-evidence competence, and procedural proportionality, and recommends doctrinal clarification and investigative reforms to strengthen justice delivery in marriage-linked offences.

II. KEYWORDS

Offences relating to marriage, Bharatiya Nyaya Sanhita 2023, matrimonial criminal liability, deception and consent doctrine, socio-legal regulation of marital status.

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III. INTRODUCTION

A. Background of Research

Marriage in India functions as a legal status and also a social institution with deep normative force. It generates enforceable rights in maintenance, residence, succession, and legitimacy. It also creates settings where control and coercion can hide behind family privacy. Many conflicts do not remain "private" in practice. They spill into police stations, protection courts, and family courts at once. This overlap makes marriage-related offending a public law concern, not merely a domestic disagreement, and it explains why criminal law intervenes to protect autonomy and bodily integrity within intimate relationships.[2]

The present research arises at a moment of structural transition in Indian criminal law. The Bharatiya Nyaya Sanhita, 2023 consolidates a recognisable class of "offences relating to marriage." It addresses deceit that induces a belief in lawful marriage, bigamy and concealment, fraudulent marriage ceremonies, and conduct involving enticing or detaining a married woman with criminal intent. It also retains the offence of cruelty by husband or relatives along with an express statutory definition of cruelty. This grouping matters doctrinally. It signals legislative intent to treat these offences as a linked protective scheme around marital status and marital vulnerability, rather than as scattered wrongs.[3]

Procedural realities shape how these offences operate on the ground. Investigation choices decide the early narrative of the case. Arrest or non-arrest decisions can harden positions and break settlement possibilities. Delay can weaken proof and deepen fear. The Bharatiya Nagarik Suraksha Sanhita, 2023 introduces a modernised procedural framework and encourages technology-assisted processes. Marriage-offence litigation often relies on digital trails like messages, call logs, location data, medical records, and contemporaneous complaints. Therefore, procedure becomes part of the background

[2] Flavia Agnes, Law and Gender Inequality: The Politics of Women's Rights in India (1999).
[3] The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India).

itself, because it decides whether the criminal process protects the complainant or exhausts her.[4]

Evidence also sits at the centre of this field. Marriage offences commonly involve acts inside homes, and proof comes in fragments. Witnesses may turn hostile due to pressure. Families often negotiate silence as a solution. Courts then face credibility contests rather than neat documentary proof. The Bharatiya Sakshya Adhiniyam, 2023 becomes relevant because rules on relevancy, electronic evidence, and presumptions can either correct the structural imbalance or amplify it. In short, the law of evidence does not merely "support" marriage offences. It often determines their practical reach.[5]

B. Research Questions

1. How does the Bharatiya Nyaya Sanhita, 2023 structurally reframe "offences relating to marriage," and what doctrinal logic emerges from treating them as a statutory cluster rather than scattered penal wrongs?
2. What is the role of civil marital status determination (validity, subsistence, void or voidable unions) in triggering or limiting criminal liability for bigamy, deceitful inducement of lawful marriage, and fraudulent ceremonies?
3. How do procedural and evidentiary choices under BNSS, 2023 and BSA, 2023, especially in relation to electronic evidence, influence reporting, investigation quality, credibility assessment, and trial outcomes in marriage-linked offences?
4. What judicial trends are visible in balancing victim-protection objectives with misuse-control safeguards (for example, strict proof standards, intention-at-inception tests, and arrest proportionality), and how should these trends inform reform proposals?

[4] The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023 (India).
[5] The Bharatiya Sakshya Adhiniyam, 2023, No. 47, Acts of Parliament, 2023 (India).

C. Research Objectives

1. To doctrinally map and classify the marriage-related offence framework under the BNS, 2023, and explain the legal elements and protective rationale of the clustered offences.
2. To analyse the "status-first" dependency of matrimonial offences by examining how personal laws and civil marriage statutes operate as gatekeepers for criminal prosecution and conviction.
3. To evaluate the operational impact of procedure and proof, focusing on investigation practices, arrest discretion, and the use, preservation, and admissibility of digital and circumstantial evidence in matrimonial prosecutions.
4. To identify consistent judicial interpretive patterns and develop reform-oriented suggestions aimed at improving doctrinal clarity, reducing wrongful implication, and strengthening victim-centric access to timely and effective remedies.

D. Research Methodology

This research adopts a doctrinal (library-based) methodology to analyse offences relating to marriage in India by systematically examining the statutory framework and judicial interpretation governing marriage-linked criminality. The study primarily relies on close textual reading of the Bharatiya Nyaya Sanhita, 2023 and its "offences relating to marriage" cluster, along with allied legislation such as the Dowry Prohibition Act, 1961, the Protection of Women from Domestic Violence Act, 2005, and the Prohibition of Child Marriage Act, 2006, to identify constituent legal elements, thresholds, and policy objectives. It further integrates interpretive analysis of leading Supreme Court decisions addressing bigamy, cruelty, deceit-induced intimacy, and procedural safeguards to map judicial trends and doctrinal tests applied in matrimonial prosecutions. Special attention is given to the procedural and evidentiary context under the Bharatiya Nagarik Suraksha

Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023, particularly regarding proof burdens and electronic evidence, to assess how enforcement design affects outcomes. The approach is analytical and normative, aimed at synthesising legal principles and identifying coherence gaps to support reform-oriented conclusions.

IV. STATUTORY ARCHITECTURE GOVERNING MARRIAGE-LINKED OFFENDING

1. Core Penal Architecture Under the Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita, 2023 places "offences relating to marriage" in a defined statutory cluster. It penalises cohabitation induced by a false belief of lawful marriage, bigamy and bigamy with concealment, fraudulent marriage ceremonies, and the enticing or detention of a married woman with criminal intent. It also retains cruelty by husband or relatives, and it carries a specific definition of cruelty that captures both grave conduct and dowry-linked harassment. This architecture treats marital status as more than a private label. It treats it as a legal condition that can be exploited through deceit, coercion, and forced dependence, and it responds through targeted criminalisation rather than general fraud norms.[6]

The BNS also introduces a separate offence for sexual intercourse by deceitful means, including a promise to marry made without intention to perform it, where the act does not amount to rape. This provision matters for marriage-linked harm because it occupies the doctrinal space where courts earlier struggled to fit relationship-based deception into older categories. It also forces a sharper inquiry into intention at inception, and it separates a mere relationship breakdown from deliberate inducement. In practical terms, it expands the penal toolkit for intimate deception while still demanding proof of deceit as a threshold, not moral disapproval of sexuality.[7]

2. Status Determination Through Personal Laws and Civil Marriage Statutes

[6] The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India).
[7] The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India) (Section 69).

The criminal law in this area repeatedly depends on civil status. Bigamy, deceitful inducement of lawful marriage, and fraudulent ceremony offences all require courts to ask a prior question. Did a valid marriage exist. Did a subsisting marriage continue. Did the ceremony satisfy the applicable personal law or the Special Marriage Act route. This makes family law and personal law a functional gatekeeper for criminal liability. Under the Hindu Marriage Act and the Special Marriage Act, courts often examine conditions of marriage, subsistence, and the legal effect of void or voidable unions before they test mens rea. This "status first" structure creates evidentiary friction. It also creates space for abuse, because one party may weaponise ambiguity in custom, rites, and registration to evade liability.[8]

3. Special Statutes That Expand Protection Beyond the Penal Core

Marriage-linked offending rarely stays inside one statute. The Dowry Prohibition Act, 1961 criminalises the giving and taking of dowry and dowry demands, and it operates as a direct companion to cruelty and dowry death fact patterns. The Protection of Women from Domestic Violence Act, 2005 adds a civil-protective frame through residence orders, protection orders, and monetary relief, and it includes relationships "in the nature of marriage," which matters where status remains disputed. The Prohibition of Child Marriage Act, 2006 criminalises facilitation and solemnisation choices around child marriage. It also reframes marriage itself as a site of harm when age and consent collapse, and it interacts with child rights jurisprudence that treats forced sexual access in child marriage as unconstitutional and illegal.[9]

4. Procedural Design Under BNSS and Proof Architecture Under BSA

The Bharatiya Nagarik Suraksha Sanhita, 2023 shapes the enforcement texture of marriage offences. Arrest powers, notice mechanisms, bail discretion, and pre-trial timelines decide whether the process protects or punishes. Matrimonial prosecutions show a recurring tension. On one side, the complainant needs swift protection and

[8] The Hindu Marriage Act, 1955, No. 25, Acts of Parliament, 1955 (India).
[9] The Prohibition of Child Marriage Act, 2006, No. 6, Acts of Parliament, 2007 (India).

deterrence. On the other side, the State must avoid automatic arrest and coercive leverage in settlement bargaining. The Supreme Court's arrest-safeguard approach in matrimonial contexts remains relevant as a constitutional baseline for proportional policing, even after codal change, because it ties liberty to reasoned arrest and not routine custody.[10]

V. THE "OFFENCES RELATING TO MARRIAGE" CLUSTER UNDER BNS

1. Section 81 BNS: Deceitful Inducement of Belief of Lawful Marriage

Section 81 targets a specific kind of exploitation. A man uses deceit to make a woman believe she is lawfully married to him. He then secures cohabitation or sexual intercourse under that false belief. The offence focuses on the *belief* created and the *causal link* between deceit and intimacy. Courts will likely test deception at the point of representation. They will also test whether the woman acted because of that belief, not merely because of affection or social pressure. Digital proof often becomes decisive here. Messages about "marriage done," fake documents, staged rituals, or witness accounts of deliberate misrepresentation can establish the deceit element. Yet fact-finding will stay difficult because intimacy happens in private, and families often silence the woman early.[11]

2. Section 82 BNS: Bigamy and Bigamy with Concealment

Section 82 criminalises marrying again during the lifetime of a spouse. It also aggravates punishment when the accused conceals the first marriage from the second spouse. This offence depends on "status proof." Prosecution must prove a valid first marriage and a second marriage performed during subsistence. The Supreme Court has repeatedly insisted on strict proof of essential ceremonies, because criminal conviction cannot rest on loose social claims. In *Bhaurao Shankar Lokhande v. State of Maharashtra*, the Court stressed that proof of the second marriage requires proof of the ceremonies that make it a marriage in law, not merely cohabitation or admission. That logic will remain relevant

[10] Arnesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273 (India).
[11] The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India) (Section 81).

under BNS, because the offence still turns on the existence of a "marriage" in the legal sense.[12]

Section 82 also reflects an autonomy concern. Concealment produces a second victim, the person deceived into the later marriage. Courts have treated concealment as a serious deception even under the earlier framework. In *Sarla Mudgal v. Union of India*, the Court engaged with bigamy in the context of conversion and reaffirmed monogamy obligations within certain personal law regimes, while signalling the harms caused by strategic status manipulation. BNS now place concealment inside the offence design itself, which may sharpen judicial focus on intention and pre-marriage disclosures.[13]

3. Section 83 BNS: Fraudulent Marriage Ceremony Without Lawful Marriage

Section 83 criminalises going through a marriage ceremony fraudulently while knowing no lawful marriage occurs. The harm sits in the performance of legality. The accused uses ceremonial symbolism to manufacture trust, sexual access, domestic labour, and social obedience. This provision becomes significant in "temple marriage" frauds, staged registrations, and sham rituals captured on video. Courts may treat this as a status-fraud that spills into sexual autonomy and economic exploitation. However, judges will still demand proof of fraudulent intent at the time of ceremony, not hindsight anger after a relationship collapse.[14]

4. Section 84 BNS: Enticing or Detaining a Married Woman with Criminal Intent

Section 84 penalises taking away, enticing, or detaining a married woman with criminal intent. It reflects an older protective logic. Yet courts must apply it carefully, so it does not become a tool to police consenting adult relationships. Constitutional autonomy jurisprudence keeps relevance here. Where an adult woman exercises choice, the criminal process cannot treat her as property. Still, if evidence shows coercion, confinement,

[12] Bhaurao Shankar Lokhande v. State of Maharashtra, (1965) 2 S.C.R. 837 (India).
[13] Sarla Mudgal v. Union of India, (1995) 3 S.C.C. 635 (India).
[14] The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India) (Section 83).

trafficking-like control, or intent to force sexual exploitation, the section can work as an early barrier against organised abuse and intimidation.[15]

5. Sections 85 and 86 BNS: Cruelty by Husband or Relatives, and Statutory Definition

Sections 85 and 86 retain the core cruelty offence with an express definition. It covers wilful conduct likely to drive a woman to suicide or cause grave injury, and it covers harassment to coerce unlawful demands. Courts have earlier clarified that cruelty must cross a serious threshold. It cannot mean ordinary wear and tear of marriage. In *Girdhar Shankar Tawade v. State of Maharashtra*, the Court explained that cruelty in the penal sense requires gravity, and courts must read it with care. That approach will likely guide BNS interpretation too, because the definition structure remains severity based.[16]

Enforcement also carries a due process tension. The Supreme Court in *Arnesh Kumar v. State of Bihar* restrained automatic arrests in matrimonial offences and insisted on reasoned policing. That principle will likely continue to influence practice under BNS 85, because the same misuse-risk and settlement pressure patterns persist. The legal system must protect women from real violence and still protect liberty through measured arrest and fair investigation. Many police units still struggle with this balance, and in case quality suffers when they rush either way.[17]

VI. THE "PROMISE TO MARRY" AND DECEPTION PIPELINE IN BNS

1. Statutory Design Under Section 69 BNS

Section 69 of the Bharatiya Nyaya Sanhita, 2023 (BNS) creates a distinct offence of "sexual intercourse by employing deceitful means, etc." It targets a narrow consent pathway. The accused induces sexual intercourse either by deceitful means or by a promise to marry made without any intention of fulfilling it, and the act does not amount to rape. The legislature therefore places deception in a separate penal compartment, with punishment

[15] Shafin Jahan v. Asokan K.M., (2018) 16 S.C.C. 368 (India).
[16] Girdhar Shankar Tawade v. State of Maharashtra, (2002) 7 S.C.C. 756 (India).
[17] Arnesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273 (India).

that may extend to ten years and fine. The Explanation expands "deceitful means" to include inducement through false promise of employment or promotion and also marrying by suppressing identity. This drafting choice matters. It treats deceit as an independent wrong even when a court may not treat the same fact pattern as rape. It also signals a policy shift, from "broken promise" framed as private dispute to planned deception framed as public wrong, though the line can blur in practice.[18]

2. The Consent Doctrine That Feeds the Pipeline

The Supreme Court's pre-BNS jurisprudence already supplied a structured test. Courts did not criminalise every failed relationship. They looked for a false promise at inception and a direct causal link between the promise and consent. In *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 SCC 608, the Court clarified that a "false promise" requires bad faith at the time of making the promise, not a later change of heart or external disruption. That reasoning fits Section 69 BNS neatly. It prevents the provision from becoming a blunt tool for punishing relationship breakdowns. It also respects the principle that criminal liability should attach to culpable mens rea, not to later regret or social disapproval of intimacy.[19]

3. Judicial Filtering: "Failed Relationship" Versus "Deceit from Day One"

Judicial trend shows consistent caution in converting consensual intimacy into criminal prosecution merely because marriage did not follow. In *Deepak Gulati v. State of Haryana*, (2013) 7 SCC 675, the Court examined surrounding circumstances and warned against mechanically reading every unfulfilled promise as vitiation of consent. That method will likely guide Section 69 litigation too. Courts will test intention at inception, the nature of inducement, and the proximity between promise and consent. They will also look at conduct over time, including whether the accused acted in a way consistent with genuine intent to marry, or whether the record shows a calculated pattern. This filtering becomes

[18] The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, § 69 (India).
[19] Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 S.C.C. 608 (India).

essential because Section 69 offers a nearer statutory hook than earlier frameworks, so it can attract over-invocation if courts do not keep the threshold precise.[20]

4. The "Deception Pipeline" Across BNS: Joined-Up Reading with Marriage Offences

Section 69 rarely appears in isolation in real fact patterns. It often travels with a cluster of marriage-linked deceptions. A complainant may allege to suppress marital status, a staged ceremony, concealment of identity, or coercive social pressure. BNS itself invites a joined-up reading because "deceitful means" includes "marrying by suppressing identity," while the BNS also contains separate marriage-related offences such as cohabitation induced by deceitful belief of lawful marriage (Section 81 BNS) and fraudulent marriage ceremony (Section 83 BNS). This creates a pipeline. First, status fraud or identity suppression generates trust. Next, the promise of marriage functions as the moral and social lever. Then sexual access follows. The legal system must therefore treat Section 69 as part of a continuum of harm, not just as a morality clause. This approach also aligns with gender justice analysis because marriage often functions as social proof, and deception exploits that social architecture.[21]

5. Evidentiary Burden Under BSA: Proving Intention, Inducement, and Causation

The hardest element to prove remains intention. Section 69 cases will therefore depend on surrounding conduct and documentary trials. Digital communications can show repeated assurances of marriage, concealment of an existing marriage, inconsistencies about identity, and deliberate stalling tactics. The Bharatiya Sakshya Adhiniyam, 2023 (BSA) modernises the evidentiary environment for electronic and documentary material in ordinary criminal trials. In this context, courts will likely demand convergence, not isolated snippets. They will compare chats with external markers like witness accounts, family communications, travel or stay records, proof of ceremonies, and any record that the accused already had a subsisting marriage or planned to avoid marriage from the

[20] Deepak Gulati v. State of Haryana, (2013) 7 S.C.C. 675 (India).
[21] The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, §§ 81, 83 & 69 Explanation (India).

start. This makes Section 69 litigation evidence-heavy, and sometimes uneven across districts due to capacity gaps in preservation and verification.[22]

VII. SPECIAL AND ALLIED STATUTES INTERSECTING MARRIAGE-RELATED HARM

Dowry-linked coercion often operates as a silent engine behind matrimonial offences. The Dowry Prohibition Act, 1961 criminalises giving, taking, and demanding dowry, and it reframes such demands as public wrongs rather than family customs. Investigators frequently discover that allegations of cruelty or abandonment rest upon a pattern of financial extraction tied to marriage negotiations or post-marital pressure. Courts therefore read dowry demand not as isolated conduct but as part of a continuum of abuse that can escalate into physical or psychological violence, though enforcement uneven across states still weakens deterrence.[23]

Dowry death doctrine demonstrates how criminal law bridges evidentiary gaps inside domestic spaces. In *Satbir Singh v. State of Haryana*, (2021) 6 SCC 1, the Supreme Court clarified that the statutory phrase "soon before her death" requires a proximate and live link between cruelty and death, not immediate temporal proximity. That interpretation guides trial courts when they reconstruct patterns of harassment that precede unnatural deaths of married women. It permits inference from circumstantial evidence and recognizes that abuse often operates through sustained intimidation rather than single incidents. This reasoning strengthens prosecution of marriage-related harm by allowing contextual proof instead of rigid timelines.[24]

Civil protection law overlays the penal framework through the Protection of Women from Domestic Violence Act, 2005. That statute focuses on immediate relief. It grants residence orders, protection directions, and monetary support without waiting for conviction. Courts treat these remedies as complementary to criminal charges under BNS

[22] The Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023 (India).
[23] The Dowry Prohibition Act, 1961, No. 28 of 1961 (India).
[24] Satbir Singh v. State of Haryana, (2021) 6 S.C.C. 1 (India).

provisions. In *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469, the Supreme Court explained that a "relationship in the nature of marriage" requires shared household, social recognition, and stability. That interpretation expands protection to women deceived into quasi-marital arrangements where formal marriage may be disputed. The Act therefore fills practical gaps when criminal prosecution alone cannot secure safety or economic survival.[25]

Procedural law also shapes outcomes in matrimonial offences. Police discretion at the arrest stage can affect both complainant confidence and accused rights. In *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, the Supreme Court insisted that officers must comply with statutory arrest safeguards and justify detention in writing. The ruling discourages mechanical arrests in matrimonial cruelty complaints and emphasises proportionality. It has influenced police manuals and judicial scrutiny of arrest memos. This procedural discipline attempts to prevent misuse narratives from overshadowing genuine cases, though inconsistent field training still creates uneven application.[26]

Child marriage regulation adds another layer because age-based vulnerability intersects with marital status manipulation. The Prohibition of Child Marriage Act, 2006 treats child marriage as both a social offence and a rights violation. It authorises injunctions, declares certain marriages voidable, and punishes those who facilitate such unions. Courts treat child marriage not merely as invalid status but as a gateway to exploitation, trafficking risk, and early pregnancy harm. This statute therefore operates alongside BNS offences when deception or coercion targets minors within marital contexts, strengthening the protective net around children.[27]

VIII. DOCTRINAL DEEP-DIVE: CONSTITUENT OFFENCES AND LEGAL TESTS

1. "Lawful Marriage" as the Threshold Fact

[25] D. Velusamy v. D. Patchaiammal, (2010) 10 S.C.C. 469 (India).
[26] Arnesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273 (India).
[27] The Prohibition of Child Marriage Act, 2006, No. 6 of 2007 (India).

Offences relating to marriage under the BNS often begin with one hard question. Did a lawful marriage exist, and did it subsist at the relevant time. Courts treat "marriage" as a mixed fact question. It carries both civil-law ingredients and criminal consequences. In bigamy-type prosecutions, the prosecution must prove the earlier marriage with cogent evidence, not by loose admissions alone. The Supreme Court has insisted that proof must show performance of essential rites, or proof of a legally recognised form, because criminal guilt cannot rest on social assumptions or family rumours, it should not. This threshold test shapes the entire charge framing, and it decides whether conduct stays in the civil sphere or becomes penal.[28]

2. Bigamy and the Proof-of-Ceremony Test

Bigamy under the BNS operates like a status offence with a strict evidentiary core. Courts usually demand proof of the first marriage and proof of the second ceremony in a manner recognised by the applicable personal law or statute. In *Bhaurao Shankar Lokhande v. State of Maharashtra*, A.I.R. 1965 S.C. 1564, the Supreme Court held that a mere going through some form of ceremony does not establish a second marriage in law, the prosecution must prove a valid marriage ceremony. This approach prevents criminal law from punishing relationships that never mature into lawful marriage, even when the conduct looks morally wrong. It also protects against weaponised prosecutions in bitter family disputes.[29]

3. Deception-Based Marriage Offences and the Inducement Link

Several BNS provisions treat deception as the engine of matrimonial harm. The doctrinal test here turns on inducement and the complainant's belief. The court asks whether the accused created a false belief in lawful marriage, or used a fraudulent ceremony, and then obtained cohabitation or other benefit. The mens rea inquiry stays central. The fact finder looks for intentional deception, not mistake, not confusion, and not mere social pressure. The statute itself places these offences in the marriage cluster, and that placement signals

[28] Kanwal Ram v. Himachal Pradesh Administration, A.I.R. 1966 S.C. 614 (India).
[29] Bhaurao Shankar Lokhande v. State of Maharashtra, A.I.R. 1965 S.C. 1564 (India).

that deception about marital status can itself be a distinct wrong, even before physical harm becomes visible.[30]

4. Cruelty as a Pattern Offence and the "Gravity plus Context" Inquiry

Matrimonial cruelty under the BNS keeps a pattern-based structure. Courts examine repeated conduct, the surrounding power imbalance, and the specific content of harassment. They look for behaviour that causes grave injury or danger, or harassment linked to unlawful demand. In *Sushil Kumar Sharma v. Union of India*, (2005) 6 S.C.C. 281, the Supreme Court upheld the constitutionality of the cruelty offence while acknowledging misuse concerns and stressing careful application. This creates a working judicial test. Courts separate ordinary wear and tear from sustained coercive conduct. They also avoid importing private morality into the criminal file, though that risk still appears in practice.[31]

5. "Promise to Marry" and the Intention-at-Inception Test

The deception pipeline for sexual access through a promise to marry now has a direct statutory home in Section 69 BNS. Courts will likely retain the same doctrinal spine developed under rape-consent jurisprudence. They will ask whether the promise stood false from the start, and whether consent flowed from that false promise. In *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 S.C.C. 608, the Supreme Court explained that a false promise must show bad faith at inception, and a direct nexus with consent. This test matters because it prevents criminal law from treating every failed relationship as deception. It targets planned exploitation, not later change of mind, or family refusal, or economic hardship.[32]

IX. JUDICIAL TRENDS AND EVOLVING INTERPRETIVE PATTERNS

Courts have steadily treated matrimonial cruelty as both a protective shield and a misuse-sensitive offence. The Supreme Court has refused to dilute the provision, yet it insists on

[30] The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, §§ 81–83 (India).
[31] Sushil Kumar Sharma v. Union of India, (2005) 6 S.C.C. 281 (India).
[32] Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 S.C.C. 608 (India).

disciplined scrutiny of allegations. In *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281, the Court upheld the constitutionality of the cruelty offence and warned that exaggerated complaints should not convert criminal law into a weapon of vengeance. This reasoning is shaped like trial practice. Judges now seek concrete particulars, dates, acts, and continuity. They distinguish ordinary marital discord from conduct that crosses the penal threshold. The trend signals a calibrated judicial stance. Protection must remain strong. But proof must remain strict.[33]

Arrest jurisprudence has transformed the procedural landscape. The Supreme Court in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273 mandated compliance with statutory safeguards before arrest in matrimonial cruelty complaints. Police must justify detention. Magistrates must verify necessity. This directive reshaped investigation culture across many states. It reduced routine arrests and shifted focus to evidence collection first. Courts now frequently cite the case while deciding bail or quashing petitions. The interpretive pattern therefore shows a rights-oriented procedural discipline. Criminal law must not become punishment before trial, yet enforcement must not become indifferent either. Balancing these competing concerns defines the present judicial mood.[34]

Bigamy jurisprudence reveals another consistent interpretive pattern. Courts demand strict proof of valid marriage ceremonies because criminal liability attaches only to legally recognized unions. In *Bhaurao Shankar Lokhande v. State of Maharashtra*, A.I.R. 1965 S.C. 1564, the Supreme Court held that performance of essential ceremonies must be proved to establish a valid marriage for purposes of bigamy prosecution. This doctrinal insistence prevents punishment based on social presumption or informal relationships. It also forces prosecutors to produce documentaries or witness proof of rites. The pattern

[33] Sushil Kumar Sharma v. Union of India, (2005) 6 S.C.C. 281 (India).
[34] Arnesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273 (India).

therefore reflects a rule-of-evidence orientation rather than moral evaluation, though lower courts sometimes struggle with evidentiary gaps in customary marriage cases.[35]

Consent jurisprudence has also evolved in deception-linked intimacy cases. Courts now consistently distinguish between a false promise from the start and a genuine promise that later fails. In *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 SCC 608, the Supreme Court clarified that consent becomes vitiated only when the promise to marry was false at inception and directly induced the act. This reasoning continues to guide interpretation under newer statutory frameworks addressing deceit. It narrows criminal liability to intentional exploitation. It excludes situations where relationship collapse resulted from external pressures or mutual incompatibility. This doctrinal precision aims to prevent criminalisation of emotional failure, though factual assessment often remains complex.[36]

Courts have also expanded recognition of non-formal relationships when protection statutes require it. In *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469, the Supreme Court interpreted "relationship in the nature of marriage" to include stable cohabitation resembling marriage. This interpretation influences marriage-related harm litigation because victims may face abuse without formal marital status. Judicial willingness to recognize social reality over rigid form has widened the protective net. It also signals an interpretive shift from ritual validity to lived relational substance. That shift aligns with constitutional commitments to dignity and equality, even if doctrinal boundaries still evolve.[37]

Quashing jurisprudence illustrates another emerging pattern. High Courts increasingly intervene at preliminary stages when allegations lack statutory ingredients. They examine complaint narratives against the legal elements of offences. If essential facts are absent, proceedings are terminated early. This practice draws authority from the

[35] Bhaurao Shankar Lokhande v. State of Maharashtra, A.I.R. 1965 S.C. 1564 (India).
[36] Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 S.C.C. 608 (India).
[37] D. Velusamy v. D. Patchaiammal, (2010) 10 S.C.C. 469 (India).

Supreme Court's formulation in *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, which laid down categories where criminal proceedings may be quashed to prevent abuse of process. Courts apply these principles frequently in matrimonial offence petitions. The trend shows judicial willingness to filter weak cases at the threshold rather than after years of trial. Such filtering protects both complainant credibility and accused liberty.[38]

X. FINDINGS, CONCLUSIONS, AND REFORM PROPOSALS

Judicial application of marriage-related offences shows a pattern of calibrated criminalisation. Courts do not treat matrimonial disputes as automatically penalty. They demand statutory ingredients, proof of intention, and credible evidence. This approach reflects a constitutional balance between personal liberty and victim protection. In *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, the Supreme Court required strict compliance with arrest safeguards in matrimonial offences. That ruling shaped investigation practice nationwide. It reduced mechanical arrests. It also compelled police to justify coercive steps. The finding indicates that procedural fairness has become a core interpretive value in marriage-linked criminal adjudication.[39]

Doctrinal evaluation reveals that offences tied to marriage now function through layered statutory interaction rather than isolated provisions. The Bharatiya Nyaya Sanhita, 2023 groups deception, cruelty, and marital status offences within a coherent cluster. This structural design reflects legislative intent to recognise relational harm as a composite phenomenon. Courts increasingly read provisions together when facts show deception, coercion, or concealment. This interpretive trend strengthens legal coherence because it prevents fragmented adjudication. It also aligns with comparative criminal jurisprudence where intimate-partner offences are treated as context-sensitive categories rather than discrete wrongs.[40]

[38] State of Haryana v. Bhajan Lal, 1992 Supp (1) S.C.C. 335 (India).
[39] Arnesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273 (India).
[40] The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023 (India).

Findings also show that evidentiary reasoning dominates outcomes more than moral reasoning. Courts repeatedly insist on proof of ceremonies, intention, and causal nexus. In *Bhaurao Shankar Lokhande v. State of Maharashtra*, A.I.R. 1965 S.C. 1564, the Supreme Court ruled that proof of essential marriage rites is indispensable for bigamy conviction. This principle still governs trial practice. It prevents conviction based on assumption or social reputation. It also reinforces the rule that criminal guilt must rest on legally admissible proof. Such insistence signals a mature evidentiary culture, though trial courts sometimes struggle with documentary scarcity in customary marriage contexts.[41]

Interpretive patterns also demonstrate sensitivity toward consent and deception in intimate relations. In *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 SCC 608, the Supreme Court clarified that a promise to marry vitiates consent only when it was false from inception and directly induced the act. This doctrinal test now guides analysis of deception-based offences. It narrows criminal liability to deliberate exploitation. It excludes later relationship breakdowns. The finding therefore confirms that Indian courts prefer intention-centred analysis over outcome-centred reasoning. Such a trend strengthens doctrinal precision but requires careful factual reconstruction, sometimes difficult in private relationships.[42]

Socio-legal assessment shows that protective statutes like the Protection of Women from Domestic Violence Act, 2005 complement criminal provisions by providing immediate civil relief. They allow courts to secure residence, maintenance, and protection orders without waiting for conviction. Empirical scholarship has noted that integrated civil-criminal responses improve reporting and victim confidence because survivors receive tangible relief early in proceedings. This indicates that legal reform must not rely solely on penal provisions. It must also strengthen support-oriented statutes and institutional coordination.[43]

[41] Bhaurao Shankar Lokhande v. State of Maharashtra, A.I.R. 1965 S.C. 1564 (India).
[42] Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 S.C.C. 608 (India).
[43] See Asha Bajpai, Domestic Violence and Law Reform in India, 44 Econ. & Pol. Wkly. 38 (2009).

Reform analysis suggests three priority directions. First, statutory clarification of key mens rea phrases such as "deceitful means" would reduce interpretive inconsistency across jurisdictions. Second, investigation protocols should mandate early digital evidence preservation and forensic verification, since most modern matrimonial disputes involve electronic communication trails. Third, judicial training should emphasise socio-legal context, especially power imbalance and economic dependence, to prevent narrow readings of cruelty or coercion. Comparative research supports such reforms. Studies on intimate-partner violence frameworks show that specialised investigative guidelines increase conviction accuracy and reduce wrongful prosecution rates.[44]

XI. BIBLIOGRAPHY

A. Primary Sources: Statutes and Codes

1. The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023 (India).
2. The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46 of 2023 (India).
3. The Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023 (India).
4. The Dowry Prohibition Act, 1961, No. 28 of 1961 (India).
5. The Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005 (India).
6. The Prohibition of Child Marriage Act, 2006, No. 6 of 2007 (India).
7. The Hindu Marriage Act, 1955, No. 25 of 1955 (India).
8. The Special Marriage Act, 1954, No. 43 of 1954 (India).

B. Primary Sources: Cases

1. Arnesh Kumar v. State of Bihar, (2014) 8 S.C.C. 273 (India).

[44] See World Health Organization, Responding to Intimate Partner Violence and Sexual Violence Against Women: WHO Clinical and Policy Guidelines (2013).

2. Bhaurao Shankar Lokhande v. State of Maharashtra, A.I.R. 1965 S.C. 1564 (India).
3. D. Velusamy v. D. Patchaiammal, (2010) 10 S.C.C. 469 (India).
4. Deepak Gulati v. State of Haryana, (2013) 7 S.C.C. 675 (India).
5. Kanwal Ram v. Himachal Pradesh Admin., A.I.R. 1966 S.C. 614 (India).
6. Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 S.C.C. 608 (India).
7. Sarla Mudgal v. Union of India, (1995) 3 S.C.C. 635 (India).
8. Satbir Singh v. State of Haryana, (2021) 6 S.C.C. 1 (India).
9. State of Haryana v. Bhajan Lal, 1992 Supp (1) S.C.C. 335 (India).
10. Sushil Kumar Sharma v. Union of India, (2005) 6 S.C.C. 281 (India).

C. Secondary Sources: Books and Commentaries

1. K.D. Gaur, Textbook on the Indian Penal Code (6th ed., Universal Law Publ'g 2019).
2. Ratanlal & Dhirajlal, The Indian Penal Code (36th ed., LexisNexis 2020).
3. Ratanlal & Dhirajlal, The Law of Evidence (28th ed., LexisNexis 2022).
4. Mulla, Principles of Hindu Law (22d ed., LexisNexis 2016).
5. Paras Diwan, Family Law: Law of Marriage and Divorce in India (9th ed., Universal Law Publ'g 2018).

D. Secondary Sources: Reports, Articles, and International Instruments

1. Nat'l Crime Recs. Bureau, Crime in India 2022 (Book 1) (Gov't of India), https://ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf.
2. World Health Org., Responding to Intimate Partner Violence and Sexual Violence Against Women: WHO Clinical and Policy Guidelines (2013), https://www.who.int/publications/i/item/9789241548595.

3. Comm. on the Elimination of Discrimination Against Women, General Recommendation No. 35 on Gender-Based Violence Against Women, Updating General Recommendation No. 19, U.N. Doc. CEDAW/C/GC/35 (July 26, 2017), https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-35-2017-gender-based.
4. G.A. Res. 48/104, Declaration on the Elimination of Violence Against Women (Dec. 20, 1993).
5. Convention on the Elimination of All Forms of Discrimination Against Women art. 2, Dec. 18, 1979, 1249 U.N.T.S. 13.
6. International Covenant on Civil and Political Rights art. 7, Dec. 16, 1966, 999 U.N.T.S. 171.