

GJKT010024022023



Exh. A/62

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FORM - A**IN THE COURT OF ADDITIONAL SESSIONS JUDGE,****Before Mr.J.A. Thakkar****Additional Sessions Judge & Special Judge (POCSO)****SESSIONS CASE NO.79 OF 2023****Details of FIR/Crime and Police Station**

Police Station	:	Mandvi Police Station
Crime/FIR No.	:	I- C.R. No. 11205031220607/2022
Complainant	:	The State of Gujarat
Represented By	:	Mr. P.V.Vaniya, learned APP
Accused	:	Paresh Karshanbhai Patariya (Maheshwari), Age-25 Years, Occu.: Private Service, R/O. Gokulvas, Mandvi- Kachchhh
Defended By	:	Ld. Advocate Mr. P.S.Keniya

FORM - B

Date of Offence	01.11.2020
Date of FIR	21.10.2022
Date of Charge-sheet	08.05.2023

Date of Framing of Charges	05.02.2025
Date of commencement of evidence	18.02.2026
Date on which judgment is reserved	20.03.2026
Date of the Judgment	25.03.2026
Date of the Sentencing order, if any	----

DETAILS OF ACCUSED

Ran k of the Acc use d	Name of the Accused	Date of Arrest	Date of Relea sed on Bail	Offences charged with	Whe the r Acquitt ed or convict ed	Senten ce Impose d	Period of Detention undergon e during Trial for purpose of section 428 Cr.P.C.
A1	Paresh Karshanb hai Patariya (Maheshw ari),	21.10.20 22	14.11. 2022	U/s. 394, 376(2)(n), 354(a) (d), 506(2) of the Indian Penal Code, 1860	Acquitt ed	-----	24 days

FORM – C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES			
A. Prosecution Witnesses:			
RAN K	NAME	NATURE OF EVIDENCE	EXHIBI T

		(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)	
PW-1	Victim	complainant	33
PW-2	Father Victim	Wtiness	35
PW-3	Dr. Shitalben N. Mange	Medical Officer	46
PW-4	Aniruddhsinh Jinubhai Chauhan	Police Witness (Investigating Officer)	57
B. Defence Witnesses, if any:			
RAN K	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)	
NIL			
C. Court Witnesses, if any:			
RAN K	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)	
NIL			

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

Sr. No.	Ex.No.	Description
1	34	Complaint
2	36	Place of offence Panchnama
3	37	Clothes recoverd Panchnama
4	38	Panchnama of local place
5	39	Muddamal recovered Panchnama
6	40	Samples recovered Panchnama
7	41	Letter to M.O. for medical examination of accused
8	42	Letter issued by M.O. regarding collection of medical samples of accused
9	43	Medical Examination Report of accused
10	47	Letter to M.O. for medical examination of victim
11	48	Medicolegal Examination Report of Sexual Violence of victim
12	49	Letter issued by M.O. regarding collection of medical samples of accused
13	58	Report sent to FSL, Rajkot for opinion
14	59	Receipt of Muddamal issued by FSL

J U D G M E N T

[1] The accused named (1) Paresh Karshanbhai Patariya (Maheshwari), has been booked for the offences punishable under Sections 394, 376(2)(n), 354(a) (d), 506(2) of the Indian Penal Code, 1860, (hereinafter referred to as "the IPC" for the sake of brevity).

1.1 In case of *Nipun Saxena Vs. Union of India, 2019(2) SCC 704 and Bhupinder Sharma Vs. State of U.P. (2008) 8 SCC 551*, it has been held by the Hon'ble Supreme Court that keeping in view of the social object of preventing social victimization and ostracism of the victim of a sexual offence for which Section

228-A has been enacted, it would be appropriate that in the judgments, the name of the victim should be indicated. Thus, in view of the above provisions and Section 228A of IPC, disclosure of identity of the victim and concerned witnesses have not made.

- 2] The case of prosecution in brief is that, two or three years ago from 21.10.2022, the accused by making friendship with the complainant, took her for a roaming in the garden, took photos on his mobile phone and threatened to make the photos viral if she did not have physical intercourse and Called her at his house and forcibly had physical relations against her will, raped her and after she getting married, also chased her, took advantage of her aloneness, physically abused her and after the divorce of complainant, threatened to kill her for having physical relations and on the evening of 20/10/2022, near Mahila Baug, the accused publicly held the complainant's hand and asked her to come with him. When the complainant refused, he slapped her two or three times on the face and robbed her Oppo mobile phone worth ₹4,500/- and a black purse containing ₹200/- in cash and thereby committed a serious offence under Sections 394, 376(2)(n), 354(a) (d), 506(2) of the IPC.
- 3] After filing of the charge-sheet and on appearing of the accused, it is assured that the copies of police papers have been given to him. Thereafter, charge was framed against the accused for the offence punishable under Sections 394, 376(2)(n), 354(a) (d),

506(2) of the IPC. The plea of the accused was recorded to which the accused pleaded not guilty and claimed for trial.

- 4] The prosecution, thereafter, led the evidence and after leading evidence, submitted a closing pursis. Thereafter, further statement of accused under section 313 of Criminal Procedure Code, 1973 was recorded. The accused has denied the charges leveled against him and further stated that he is innocent person and has been falsely implicated in this case.
- 5] Heard learned APP for the State and learned advocate Mr.P.S.Keniya for the accused at length.
- 6] Upon giving careful consideration upon rival contentions, oral as well as documentary evidence on record, the following points arise for determination of this case:

:POINTS FOR DETERMINATION:

- (1) Whether the prosecution proves beyond reasonable doubt that two or three years ago from 21.10.2022, the accused befriended with the complainant and took her for a roaming in the garden, took photos on his mobile phone and threatened to make the photos viral if she did not have physical intercourse and Called her at his house and forcibly had physical relations against her will, raped her and after she getting married, also chased her, took advantage of her aloneness, physically molested her and after the divorce of complainant, threatened to kill her for having physical relations and on the evening of 20/10/2022, near Mahila Baug, the accused publicly held

the complainant's hand and asked her to come with him. When the complainant refused, he slapped her two or three times on the face and robbed her an Oppo mobile phone worth ₹4,500/- and a black purse containing ₹200/- in cash and thereby committed a serious offence under Sections 394, 376(2)(n), 354(a) (d), 506(2) of the IPC?

(2) What order?

[7] My answers to the aforesaid points are as under-

(1) In Negative.

(2) As per final order.

Submissions on behalf of the State:

8] Learned APP for the State has vehemently submitted that the accused has committed the serious offence under Sections 394, 376(2)(n), 354(a) (d), 506(2) of the IPC. He has further submitted that the complainant has filed the complaint on 21.10.2022 which is produced at Ex.34. The learned APP has further submitted that the medical certificates issued by the doctors as well as the case papers of the complainant produced on record indicate that the complainant was subjected to rape at the hand of the accused. Ld. P.P. has further argued that the police witness and medical evidences have supported the prosecution's case. Further, it also appears from the evidences came on record that the accused has committed aforementioned offences. Thus, the prosecution proved beyond reasonable doubt that the accused has committed aforementioned serious offence with the

complainant. He has, therefore submitted that the accused should be held guilty for the offences for which he is charged.

Submissions on behalf of accused:

9] Learned advocate Mr.P.S.Keniya for the accused has admitted that, vehemently submitted that the accused is an innocent who has been falsely implicated in this case. He has further submitted that there is no iota of evidence of the commission of the alleged offences by the accused. He has further submitted that if the complaint as well as the deposition of the complainant and other witnesses are seen and read together, then they clearly proves that the prosecution has miserably failed to prove commission of any of the offences by the accused. He has also submitted that if the entire evidence of the prosecution is read, there is no proof on record to show that the accused has committed alleged offences.

9.1 The learned advocate for the accused has also drawn attention of this Court to the depositions of the material witnesses i.e. complainant and submitted that there is material contradiction in the story put forward by the complainant in the complaint and thus, the prosecution story fails on this very important aspect. He has further submitted that if the deposition of victim is seen, it does not support the case of the prosecution and turned hostile. The medical report also does not inspire any confidence or show involvement of the accused in the alleged offences. He has, therefore, submitted the prosecution fails to prove the charges against the accused beyond reasonable doubt and hence, has submitted that the accused be acquitted.

:REASONS:

[10] Point No. 1:

10.1 This Court has framed the charges against the accused under Sections 394, 376(2)(n), 354(a) (d), 506(2) of the IPC. I have gone through the entire penal provisions streaming under the aforesaid sections of the IPC along with the Criminal Law Amendments.

10.2 The prosecution in order to swim across safely has examined as many as 4 witnesses on its side and has also produced list of documents.

- 11** The prosecution has examined the **PW1 – Victim/ complainant** at Exh.33. In her examination-in-chief the witness has stated that, she was living in Mandvi with her father in the year 2022 and two years before that she had become friend with Paresh Karshan Pataria (accused) and they used to talk to each other on the phone and they became close friends so much that they both used to go for roaming in Mandvi garden and at that time he had captured his own photo but did not captured any photo of victim and after that she used to go to his house and also used to meet his family members. Further, she has deposed that it has never happened that, she has gone to house of Paresh and there Paresh Karshan threatened her to make her photos viral and did indecent acts with her either with her consent or against her consent. Further, she has deposed that, after that, a year or so later, she got married to Salim Amad Node, a resident of Kathadawala and she went to her in-laws and then as she got married, she stopped to talk with Paresh Karshan. Further, she has deposed that, it has never happened that, after that, he (the accused) ever threatened her or

harassed her or followed her. Further, she has deposed that, it has also not happened that, about four years ago, she went to have snack somewhere in Mandvi and there Paresh Pataria chased her and came to her and grabbed her hand and slapped her or snatched her mobile phone or purse or cash from her and also it has not happened that, she talked to anyone about Paresh Pataria. Further, she has deposed that, at the relevant time she had a friendship with the accused and they used to talk only on mobile phone and they were very good friends so they also took pictures with each other but later on, a verbal spat occurred between them over a minor matter, and in haste and agitation, she filed the present complaint. Upon being shown the original complaint from the court record, the witness identified her signature and the same is exhibited vide Exh.-34. Further, she has deposed that, as she had friendly relations with the accused earlier, she know him. Further, she identified the accused beforr the Court. Further, she has deposed that, it has not happened that, after filing the complaint, she gave any of her clothes to the police or if any clothes are shown to her she cannot recognize them. Further, she has deposed that, it has not happened that, she went to any place with the police and showed the place to the police. Further, she has deposed that after she filed the complaint, the police took her to the hospital for her physical examination where she told the doctor the same facts as she stated above and when the doctor asked her to sign she made her thumb impression. Further she has deposed that, it has not happened that, the accused having befriended her and taken advantage of her naivety, invited her to meet him and took photos on her mobile or by threatening to make the photos viral, forced her to have physical relations with him or it has also not happened that he called her to

his house and called her to meet him at her house when there was no one at her house and made physical relation with her either with her consent or against her consent at any point of time and it has not happened that, even after her marriage, the accused forced her to have physical relations and harassed her by physically molesting her when she was alone, or it has not happened that, when she went to get snack, the accused chased her and asked her to come with him and when she refused, he slapped her and took her mobile and purse.

11.1 As this witness has not supported case of the prosecution, Ld. Ad.P.P. has declared this witness **hostile**. After declared this witness hostile, the Ld. Ad.P.P. with permission of this Court, cross examined the witness in detail but the prosecution has totally failed to bring anything important on record which helpful to the case of the prosecution.

11.2 The defense has cross-examined the complainant/victim, in which she has admitted that, she only had friendly relations with the accused. She has further admitted that, the accused had not taken any photos of her, nor had he threatened to make them viral. She has further admitted that, the accused had never committed any misdeed with her either with her consent or against her consent. She further admitted that the accused had never beaten her or it has never happened that, the accused had snatched her cash, mobile phone, or purse. She also admitted that, she did not leave the house without wearing a burkha. Further, she has admitted that, she had gone to the police station wearing veil (burkha), and the complaint had been written by her father and she had only signed in it.

12. Thereafter, the PW-2 – father complainant/ victim has stepped in witness box who has been examined at Exh.35. In his examination-in-chief the witness has stated that, he resided in Mandvi with his family and worked as a driver. He has further deposed that, that in year 2022, his victim daughter was staying with him in Mandvi and that approximately two years prior, she befriended with Paresh Karshan Patariya. Further, he has deposed that, they used to communicate with each other over the phone. He has further deposed that it has not happened that, his daughter had gone to the house of accused Paresh, or the accused by giving threaten to make her photos viral committed misdeed with her either with her consent or against her consent and his daughter had ever stated such fact to him or any of his family members. Further he has deposed that, about a year later, his daughter had been married to Salim Ahmed Node, a resident of Kathdavala, and had moved to her in-laws' house and as her daughter got married, Paresh Karshan had stopped communicating with her. Further, he has deposed that, it has never happened that, after that the accused had ever harassed her by threatening her, or followed her. Further, he has deposed that it has never happened that about four years ago, his victim daughter went to have snack somewhere in Mandvi and there Paresh Pataria chased her and went to her and grabbed her daughter's hand and slapped her or snatched her mobile phone, purse or cash and her daughter has ever informed him about it. Further, he has deposed that, it has never happened that he has spoken to anyone about Paresh Pataria. Further, he has deposed that the police have interrogated him about the incident and recorded his statement. Further he has deposed that, he know the accused as he belongs to his village. Further, he has

identified the accused before the Court. Further, he has deposed that, it has never happened that, the accused by making friendship with his victim daughter and by taking advantage of her naivety, invited her to meet him and took photos on her mobile phone, or threatened to make the photos viral, forced his victim daughter to have physical relations with him, or called her to his house and called her to meet him at their house when there was no one at home and made physical relation with her either with her consent or against her consent at any point of time or it has not happened that, even after his daughter got married, the accused forced her to have physical relations and harassed her by physically molesting her when she was alone, or when his victim daughter went to get snack, the accused chased her and asked her to come with him, and when his daughter refused, he slapped his daughter and took her mobile phone and purse, and it has not happened that, all such facts have ever been told to him by his daughter.

12.1 As this witness has not supported case of the prosecution, Ld. Ad.P.P. has declared this witness hostile. After declared this witness hostile, the Ld. Ad.P.P. with permission of this Court, cross examined the witness in detail but the prosecution has totally failed to bring anything important on record which helpful to the case of the prosecution.

12.2 The defense has cross-examined the witness, in which he has admitted that, his daughter only had friendly relations with the accused. He has further admitted that, the accused had not taken any photos of his daughter nor had he threatened to make them viral. He has further admitted that, the accused had never performed any

misdeed with his daughter. He has further admitted that the accused had never snatched cash from his victim daughter or beaten her. Further, he has admitted that the police has recorded the statement by themselves and he has only made signature in it. Further, he has admitted that, he has not written any facts to the police nor police has asked him.

- 13] Thereafter, the prosecution has examined medical witness **PW-3 – Dr. Shitalben N. Mange** at **Exh.46**. She has deposed that, on 21/10/2022, while she was on duty as a Medical Officer at Sub District Hospital, Mandvi, victim was sent by Mandvi Police Station with a letter for medical examination of the victim. Further, she has deposed that the victim was 22 years old. Further, the witness has deposed that, she was brought by Lady Constable Surekhaben Desai. Further, the witness has deposed that they started the physical examination of the victim at 5:45 pm. Further, the witness has deposed that before conducting the physical examination of the victim, her consent was obtained for which the victim's signature was obtained. Further, the witness has deposed that the victim had black moles on both hands as identification marks on her body. Further, the witness has deposed that when asked about the history of the victim, she stated that the *“complainant (victim) had a relationship with Paresh Karshan Pataria and then she got married to Salim Amadbhai and she got divorce twelve days before the victim was brought for physical examination. Three months before she came for physical examination, Paresh Karshan Pataria had sexual intercourse with the victim in a car*

at Babavadi.” Further, she has deposed that, the victim had taken bath and changed clothes. No external injury marks were found on the victim's body. The victim's vagina was torn. During the physical examination of the victim, the following samples were taken. (1) Blood, (2) Urine, (3) Saliva, (4) Pubic hair, (5) Scalp hair, (6) Vaginal swab and (7) Axillary samples were taken and the samples were sealed and sent to Mandvi Police Station with a sealed sample in the forwarding letter. Further, she has deposed that, after the medical examination, they reserved their opinion until the FSL report comes. Further, she has deposed that, later on the same day, the accused was sent for medical examination by Mandvi Police Station along with the yadi who was brought by Police Constable Manojbhai. Further, she has deposed that, before the examination, the consent of the accused was taken. Further, she has deposed that, when asked the name of the accused, he stated that his name was Paresh Karshanbhai Pataria, Age:- 25, resident-Gokulvas, Mandvi. Further, she has deposed that, He was married, his identification marks were a star tattoo on his right hand and a 'KP' tattoo on his left hand. Further, she has deposed that, on physical examination of him, He had hair in his armpits and private parts, beard and moustache, and his genitals were developed. Further, she has deposed that, His clothes had been changed. Further, she has deposed that, no external injury marks were found on the body of the accused. Further, she has deposed that, during the physical examination of the accused, the following samples were taken (1) Blood, (2) Saliva, (3) Semen, (4) Nails, which samples were sealed and sent to the Mandvi Police Station with a forwarding letter. Further, she has deposed that, after the physical examination of the accused, in their opinion, he was capable of having sexual

intercourse. Further, the witness has identified and referred the documents produced vide Exh.-41, 43, 47, 48, 49 in her deposition.

- 13.1 This witness was cross-examined by learned advocate for the accused. In her cross-examination, she has admitted that the victim was married before she came before her for physical examination. Further, she has denied that they have written the history of the victim as per the police yadi. Further, she has denied that she did not conduct any physical examination of the victim or the accused and that she gave a false certificate at the behest of the police. Further, she has admitted that the victim had signs of internal or external injuries. Further, she has admitted that, there were no signs of force on the victim's body.

- 14] The prosecution has examined **PW4 – Aniruddhsinh Jinubhai Chauhan** at **Exh.57** who is the Investigating Officer in the instant case. This witness is currently serving as a police inspector in Vadodara and is currently engaged in other important investigation activities and cannot appear in court. Therefore, the prosecution has requested that the evidence of the said witness be recorded through video conference in the Zoom application platform and the defense has no objection. Accordingly, as per the order passed below application at Exh.-56, the evidence of the said witness is recorded through video conference.

- 14.1 The said witness in his deposition has deposed that, on 21/10/2022, when he was on duty as a Police Inspector at Madvi Police Station, the complainant came in person and as he written

down the details of the incident that happened with him, the witness wrote down the facts of the complaint as written by him. Further, on showing the original complaint at Exh.-32, he has identified the same. Further, he has deposed that, thereafter, the complaint was given to the PSO for registration of offence and after the offence was registered, he personally handled the investigation. Further, he has deposed that, for the purpose of investigation, he has recorded the statements of the relevant witnesses and conducted a panchnama of the local place in the presence of the panchs. Further, he has deposed that, for the purpose of investigation, he has recorded the statement of the complainant/victim, and made procedure to record the statement of the victim as per Section-164 of the Cr.Pro. Code. Further, he has deposed that, the clothes worn by the victim at the time of the incident were seized as per the panchnama details and procedure was conducted to get the victim medically examined. Further, he has deposed that, during the investigation, as the accused was found, the clothes worn by the accused at the time of the incident and the mobile phone used and cash amount of Rs. 200/- were seized as per the panchnama details and the accused was arrested. Further, he has deposed that, for the purpose of investigation, procedure was conducted to get the accused medically examined. Further, he has deposed that, as the medical samples of the victim and the accused arrived from the hospital, they were seized as per the panchnama details. Further, he has deposed that, the seized muddamal has been sent to FSL for examination. Further, he has deposed that, after the investigation, as there is sufficient evidence against the

accused, charge sheet was filed before the Hon'ble Court. Further the witness identified the accused as well as muddamal before the Court. Further, he has confirmed the statement of victim recorded before him.

14.2 The said witness was cross-examined by the defence side, wherein he has denied that, he has recorded the statements of the witnesses himself. Further, he has denied that the Panchnamas were prepared by sitting in his office and later the signatures of the Panchs were taken. Further, he has denied that the accused was wrongly arrested. Further, he has denied that the muddamal was falsely created. Further, he has denied that despite the absence of any evidence against the accused, a false investigation was carried out and a false charge-sheet was filed on false grounds.

15] Upon perusal and appreciation of the deposition of the main witness i.e. the complainant (PW1), she has not supported the facts of the complaint in her deposition. She has mainly stated in her deposition at Exh.-33 that, in year 2022, she was living in Mandvi with her father and two years before that she had become friend with Paresh Karshan Pataria (accused) and they used to talk to each other on the phone and they became close friends so much that they both used to go for roaming in Mandvi garden and at that time accused had captured his own photo but did not captured any photo of her and after that she used to go to his house and also used to meet his family members. Thereafter, she has clearly stated in her deposition that it has never happened that, she had gone to house of Paresh and there Paresh Karshan by giving threat her to make her photos viral, committed indecent acts with her either with her consent or against

her consent. Further, she has also deposed that, after that, a year or so later, she got married to Salim Amad Node, a resident of Kathadawala and she went to her in-laws and then as she got married, she stopped to talk with Paresh Karshan. Further, she has clearly deposed that, it has never happened that, thereafter, accused ever threatened her or harassed her or followed her. Further, she has clearly deposed that, it has also not happened that, about four years ago, she went to have snack somewhere in Mandvi and there Paresh Pataria chased her and came to her and grabbed her hand and slapped her or snatched her mobile phone or purse or cash from her and also it has not happened that, she talked to anyone about Paresh Pataria. Further, it transpires from her deposition that, at the relevant time she had only friendship with the accused and they used to talk only on mobile phone and they were very good friends so they also took pictures with each other but later on, a verbal spat occurred between them over a minor matter, and in haste and agitation, she filed the present complaint. Again she has clearly stated in her deposition that, it has not happened that, the accused having befriended her and taken advantage of her naivety, invited her to meet him and took photos on her mobile or by threatening to make the photos viral, forced her to have physical relations with him or it has also not happened that he called her to his house and called her to meet him at her house when there was no one at her house and made physical relation with her either with her consent or against her consent at any point of time and it has also not happened that, even after her marriage, the accused forced her to have physical relations and harassed her by physically molesting her when she was alone. Further, she has also deposed that, it has not happened that, when she went to get snack, the accused chased her

and asked her to come with him and when she refused, he slapped her and took her mobile and purse. Hence, this witness has totally denied the case of prosecution. As this witness has not supported case of the prosecution, Ld. Ad.P.P. has declared this witness hostile. After declared this witness hostile, the Ld. Ad.P.P. with permission of this Court, cross examined the witness in detail but the prosecution has totally failed to bring anything important on record which helpful to the case of the prosecution. Further, in her cross-examination conducted by Ld. Adv. for the defence, she has clearly admitted that, she only had friendly relations with the accused. She has also admitted that, the accused had not taken any photos of her, nor had he threatened to make them viral. She has also admitted that, the accused had never committed any misdeed with her either with her consent or against her consent. She has further admitted that the accused had never beaten her or it has never happened that, the accused had snatched her cash, mobile phone, or purse. Then, she has also admitted that, she had gone to the police station wearing veil (burkha), and the complaint had been written by her father and she had only signed it. Thus, this main witness has not supported the case of prosecution and so case of prosecution becomes doubtful. Further looking to the evidence of the of the victim, it's appeared that no any material facts have come out which involved this accused in this offence

16. Thereafter, upon perusal and appreciation of the deposition of the other material witness i.e. the father of complainant (PW2), he has also not supported the case of prosecution. He has mainly deposed in his deposition at Exh.-35 that, in year 2022, his victim daughter was

living with him at Mandvi and about two years prior to that, his victim daughter befriended with Paresh Karshan Patariya and they used to communicate with each other over the phone. The father of victim has clearly stated in his deposition that it has not happened that, his daughter had gone to the house of accused Paresh, or the accused by giving threaten to make her photos viral committed misdeed with her either with her consent or against her consent and his daughter had ever stated such fact to him or any of his family members. Further he has deposed that, about a year later, his daughter had been married to Salim Ahmed Node, a resident of Kathdavala, and had moved to her in-laws' house and as her daughter got married, Paresh Karshan had stopped communicating with her. Further, he has deposed that, it has never happened that, thereafter the accused had ever harassed her by threatening her or followed her. Further, he has also deposed that it has never happened that about four years ago, his victim daughter went to have snack somewhere in Mandvi and there Paresh Pataria followed her and went to her and grabbed her daughter's hand and slapped her or snatched her mobile phone, purse or cash and her daughter has ever informed him about it. This witness has clearly stated in his deposition that, it has never happened that, the accused by making friendship with his victim daughter and by taking advantage of her naivety, invited her to meet him and took photos on his mobile phone, or by threatening to make the photos viral, forced his victim daughter to have physical relations with him, or called her to his house and called her to meet him at their house when there was no one at home and made physical relation with her either with her consent or against her consent at any point of time. Further, he has also deposed that, it has not happened that, even after

his daughter got married, the accused forced her to have physical relations and harassed her by physically molesting her when she was alone and it has also not happened that, when his victim daughter went to get snack, the accused chased her and asked her to walk with him, and when his daughter refused, he slapped his daughter and took her mobile phone and purse, and it has not happened that, all such facts have ever been told to him by his daughter. Hence, this witness has not supported the case of prosecution. Therefore, Ld. Ad.P.P. has declared this witness hostile. After declared this witness hostile, the Ld. Ad.P.P. cross examined the witness in detail but the prosecution has totally failed to bring anything important on record which helpful to the case of the prosecution. Further, in his cross-examination conducted by Ld. Adv. for the defence he has clearly admitted that, his daughter only had friendly relations with the accused. He has further admitted that, the accused had not taken any photos of his daughter nor had he threatened to make them viral. He has further admitted that, the accused had never committed any misdeed with his daughter. He has further admitted that the accused had never snatched cash from his victim daughter or beaten her. Further, he has admitted that the police has recorded the statement by themselves and he has only made signature in it. Further, he has admitted that, he has not written any facts to the police nor police has asked him. Thus, father of victim has not supported the case of prosecution and so case of prosecution becomes doubtful. Further looking to the evidence of the father of the victim, it's appeared that no any material facts have come out which involved this accused in this offence

17. Further, the medical examination report of accused and victim does not suggests the act of forceful sexual intercourse by the accused with the victim. Even Medical officer has admitted in her cross examination that, there is no any marks of force upon the body of the victim. Besides that, the prosecution has failed to produce the FSL reports of Muddamal samples which collected during investigation and thus, the prosecution has failed to establish it's case beyond reasonable doubt.
18. It is to be noted that as discussed above, it's appeared that the material prosecution witness i.e. victim as well as father of victim are not supporting the case of prosecution, therefore, it can be noted that primary evidences of the prosecution are not supporting to the prosecution case. It is further noted that the other evidence which produced on record by prosecution like medical certificate, history which recorded by the medical officers, etc, these all evidences are corroborative piece of evidence and it is settled principle of law that the corroborative piece of evidence (supporting evidence) can not take place of primary evidence (main evidence). Even victim has stated in her deposition that, she told the doctor the same facts as she stated above in her deposition. Under these circumstances, this Court is of view that the prosecution has absolutely failed to prove beyond reasonable doubt that, two or three years ago from 21.10.2022 the accused by making friendship with the complainant, took her for a roaming in the garden and took photos on his mobile phone and threatened to make the photos viral if she did not have physical intercourse and Called her at his house and forcibly had physical relations against her will, raped her and after she getting married, also chased her, took advantage of her

aloneness, physically molested her and after the divorce of complainant, threatened to kill her for having physical relations and on the evening of 20/10/2022, near Mahila Bag, the accused publicly held the complainant's hand and asked her to come with him. When the complainant refused, he slapped her two or three times on the face and robbed her Oppo mobile phone worth ₹4,500/- and a black purse containing ₹200/- in cash and thereby committed a serious offence under Sections 394, 376(2)(n), 354(a) (d), 506(2) of the IPC. In these circumstances, on over all appreciation of evidence and discussions made herein above, this Court concludes that the prosecution has not succeeded to prove the charge of the offence punishable u/s.394, 376(2)(n), 354(a) (d), 506(2) of IPC beyond reasonable doubt by leading cogent and reliable evidence and therefore, point No.1 is answered in the negative and for point No.2, following final order is passed:

ORDER

1. The Accused **Paresh Karshanbhai Patariya (Maheshwari)**, R/O. Gokulvas, Mandvi- Kachchhh is hereby acquitted from the charges under Sections 394, 376(2)(n), 354(a) (d), 506(2) of the IPC.
2. Bail bond executed by the accused at the time of releasing him on bail stands cancelled.
3. The accused shall execute bail bond of Rs.5,000/- (Rupees Five Thousand only) with surety of the like amount in compliance with Section 437A of the Code of Criminal

Procedure, 1973, to appear before the higher Court as and when such Court issues notice in respect of an appeal or revision/petition.

4. Non- Valuable Muddamal like clothes, samples etc. seized in this case shall be destroyed as per rules after the expiration of the Appeal period and in case Appeal is preferred, then as per the decision in the said appeal.

5. So far as valuable Muddamal mobile, purse, cash etc. are concerned, if any interim order passed, it is made permanent and if no order is passed, then it is hereby directed to do the procedure for its disposal as per law after the expiration of the Appeal period and in case Appeal is preferred, then as per the decision in the said appeal.

***Signed and Pronounced in open Court today i.e. on
25th day of March, 2026.***

sd/-

Place: Bhuj.

Date: 25.03.2026

Hiren Dave

(J.A. THAKKAR)

**Additional Sessions Judge,
Bhuj- Kachchh.
(GJ-00631).**