


MHBU010002172021 	Received on	10.02.2021
	Registered on	10.02.2021
	Decided on	14.05.2026
	Duration	Ys Ms Ds 05 03 04

IN THE COURT OF ADDITIONAL SESSIONS JUDGE AT BULDHANA
(Presided over by **Shaikh Akbar Shaikh Jafar**)

Criminal Appeal No.03/2021

Exh.No. 30

State of Maharashtra, }
Through Public Prosecutor, }
Buldhana, Tq. Dist. Buldhana } **... Appellant**

.. Versus..

1] Dipak Motilal Parmeshwar, }
Age-27 years, Occ.Labour, }
2] Kiran Motilal Parmeshwar, }
Age-25 years, Occ.Labour, }
3] Sau.Meenakshi Dipak Parmeshwar }
Age-22 years, Occ.Labour, }
All Residents of Dhad, } **... Respondents**
Tq. Dist. Buldhana } **[Accused]**

Appearances:

Smt.Sonali Saoji-Deshpande, APP for Appellant/State,
Shri N.R.Giri, Advocate for respondents/accused.

JUDGMENT

(Delivered on this 14th day of May 2026)

1] Challenge in this appeal is to the Judgment and order of acquittal passed by the learned Judicial Magistrate, First Class,

Buldnana [Court No.4] in RCC No.91/2016 dated 12.11.2019, thereby acquitted accused persons under Section 354 of the Indian Penal Code.

2] It is the case of prosecution that informant Sau. Jyoti Dipak Parmeshwar lodged a report on 06/05/2016 at Police Station, Dhad Tq. & Dist. Buldhana alleging that on 06/05/2016 at about 8.00 a.m. at her house, she was bathing her daughter in the bathroom. While pulling the door of bathroom, her cousin brother i.e. accused No.1 Dipak Parmeshwar came and started abusing her in filthy language by uttering the words “Chhinal Rand Kashala Aali”. After that, he dragged her by pulling her hair, thereafter accused No.1 pressed her breast and torn her blouse. By hearing the noise of informant, her father and mother-in-law rescued her from the clutches of accused No.1. Thereafter, accused No.1 assaulted her father-in-law on his nose by fist and blows. Accused No.2 pulled her mother-in-law from Ota and accused No.3 slapped herself and her mother-in-law. At that time Mandabai Patthe came there and rescued them from clutches of accused No.1 to 3. Thereafter, informant along with her mother and father in-laws lodged report at police station, Dhad.

3] Police have registered Crime No.61/2016 for the offences punishable under Sections 354, 323,294 r/w 34 of the Indian Penal Code and then filed charge-sheet before learned trial Court.

4] The learned trial Court framed charge against accused persons for the offences punishable under Sections 354, 323,294 r/w 34 of the Indian Penal Code, to which they pleaded not guilty and claimed to be tried. After recording the evidence of prosecution witnesses, the statement of accused persons under Section 313 of Code of Criminal Procedure were recorded. After hearing the learned A.P.P. and learned Counsel of accused persons at length, the learned Magistrate acquitted accused persons of the offences punishable under Sections 354 and 294 of the Indian Penal Code. However, convicted accused persons for the offence punishable under Section 323 of the Indian Penal Code.

5] Having displeased with the order of acquittal, the appellant/State preferred the appeal under Section 372 of the Criminal Procedure Code contending that there was ample evidence on record against accused persons. But, the learned Magistrate did not appreciate the evidence, facts and law properly. It is contention of the appellant/State that accused No.1 by entering into the bathroom, torn blouse of informant and touched her breast. As such, there was sufficient evidence against accused persons for the offence punishable under Section 354 of IPC. But, the learned Magistrate erred in not holding accused persons guilty for alleged offence. Lastly, it prayed to set aside the order of acquittal and to convict accused persons for the offence punishable under Section 354 of the Indian Penal Code.

6] Having regard to the case of prosecution, contention of appellant and the defence of accused persons raised during the trial, following points arose for my determination and I have recorded my reasons as under;

SR. NO	POINTS	FINDINGS
1]	Does the prosecution prove that on 6.5.2016 at about 8.00 a.m. at Dhad, accused No.1 used criminal force to informant and thereby pressed her breast, torn her blouse with intent to outrage her modesty ?	In the negative.
2]	Does the prosecution prove that learned Magistrate erred in acquitting accused persons under Section 354 of the IPC ?	In the negative.
3]	Whether interference needs to be done in impugned judgment?	In the negative.
4]	What order ?	As per final order.

REASONS

7] I have heard learned APP Smt.Saoji-Deshpande for appellant/State and learned Counsel Shri Giri for respondents/accused.

8] It is to note that the accused persons were facing trial for committing offences punishable under Sections 354,294 and 323

read with Section 34 of the IPC. After considering evidence on record, the learned Magistrate convicted respondents/accused persons for the offence punishable under Section 323 of the IPC and acquitted them of the offences punishable under Section 354 and 294 of the IPC. The prosecution is disagreeing the order of acquitting the accused persons for the offence punishable under Section 354 of the IPC and preferred this appeal to the extent of decision of learned Magistrate, under Section 354 of the IPC.

9] It will not be out of place to mention here that respondents/accused persons had filed appeal against the impugned judgment and order of learned trial Court bearing Cri. Appeal No.58/2019, for convicting them under Section 323 of IPC. Said appeal was decided on 17.11.2021 and order of learned Magistrate passed in RCC No.91/2016 dated 12.11.2019 was confirmed. However, the respondents/accused persons have been released by extending benefit of Probation of Offenders Act. The confirmation of judgment of learned Magistrate in RCC No.91/2016 by way of judgment in Criminal Appeal No.58/2019 itself to draw the inference that the acquittal of the accused persons under Section 354 and 294 of the IPC is also confirmed in the said appeal. Now, the present appeal for convicting the respondents/accused persons under Section 354 of the IPC by setting aside the judgment of learned Magistrate in RCC No.91/2026 would be in conflict with the judgment passed in Criminal Appeal No. 58/2019 and against the judicial ethics.

AS TO POINTS NO.1 & 2 -

10] The evidence on record discloses that PW 1 Jyoti Parmeshwar and PW 2 Kamal Parmeshwar are deposing that on the day of incident, PW 1 was giving bath to her daughter in the bathroom and accused Dipak came there, abused her, caught her hair, made her to fall down, torn her blouse and touched her breast. This evidence shows that there is no allegation against other respondents/accused persons. Therefore, even if evidence of prosecution is presumed to the appeal for convicting respondents/accused Nos. 2 and 3 i.e. Kiran Parmeshwar and Meenakshi Parmeswar would fail.

11] So as to evidence against accused Deepak is concerned, the cross-examination of PW 1 Jyoti discloses that she admits that she resides at Mumbai with her husband and in-laws and her husband has two wives. She is the second wife. Her husband resides with his first wife. She further admits that her father-in-law was serving in Mumbai Municipal Corporation, Mumbai and after retirement, he started residing at Dhad. The accused persons are children of younger brother of her father-in-law. She further deposed that before two days of incident, she had come to village Dhad. In the cross-examination of PW 2 Kamal, it has come on record that they are having common bathroom for her family and family of her younger brother-in-law. The PW 1 denied for want of knowledge that there is dispute regarding agricultural field and house at Dhad between family of accused and her family.

12] It will be apposite to mention here that the certified copies of evidence and judgment passed in JCC No.69/2016 are filed on record. This case is also pertaining to the same incident. The child Sunita Parmeshwar was shown as child-in-conflict with law in the said case. The evidence of PW 1 and PW 2 was also recorded in the said case. In the cross-examination of the evidence recorded in the said case, the witness Kamal Parmeshwar has admitted that a case is pending in the Court regarding the house between family of accused and her family. Thus, it appears that the family of accused and family of informant are having dispute regarding the house property. Therefore, the evidence of these two witnesses needs to be appreciated with higher precaution.

13] It is the case where incident occurred in the village. Therefore, the houses of accused and informant family are definitely surrounded by other houses and incident might have been witnessed by the adjoining residents. The prosecution has examined one Mandabai Fulchand Patthe as PW 5 who stated that there was quarrel occurred between informant and accused persons and she was witnessing the same from her house. She stated that Dipak and Kiran have assaulted to Shivilal. Her evidence is silent regarding the act of accused Deepak of touching to the breast and tearing the blouse. Her evidence was also recorded in JCC No.69/2016, where also, she stated the same version. Thus, the evidence of prosecution that accused Dipak had torn the blouse of informant and touched her breast is not supported by independent witness. Therefore, the

possibility cannot be ruled out that the informant has exaggerated the case of prosecution so as to implicate accused persons under the pressure to settle the civil dispute.

14] It is also to note that as per the case of prosecution, accused Dipak had torn the blouse of informant Jyoti, but the prosecution has failed to bring torn blouse on record. Nothing is on record to show that said torn blouse was seized from the informant and it was proved before the Court. In absence of such proof, the allegation against Dipak that he torn blouse and touched the breast of informant is doubtful.

15] The provisions of Section 354 IPC requires the use of criminal force or assault against a woman, and such an act being done with intent to outrage, or knowing it to be likely that it would outrage, her modesty. If the criminal force or assault on a woman or attempted to outrage the modesty is proved, the act can call under Section 354 of the IPC. The act of the accused to catch hand of the victim and locking the door from inside is sufficient to draw the inference that accused attempted to outrage modesty of the victim.

16] In the case in hand, the story of prosecution discloses that there was quarrel between family of accused persons and family of informant and accused persons have abused and assaulted the family of informant. Having found that the offence under

Section 323 of IPC is proved, the accused persons have been convicted and as the offence had occurred in the house, the offence under Section 294 of IPC found to be not proved. Likewise, in the instant case, the prosecution is required to prove that accused Dipak was having intention to outrage the modesty. But, the prosecution has failed to bring such intention on record. The informant Jyoti was residing at Mumbai and two days before the incident, she had come to village Dhad. Thus, the prosecution also failed to prove that accused Dipak was having knowledge and has intentionally touched the breast of the informant. The proof of quarrel between two families is not sufficient to hold that accused Deepak had touched the breast of the informant with intent to outrage her modesty.

17] In view of above discussion, I am of the view that prosecution has failed to establish that respondents/accused persons have committed punishable under Section 354 of the IPC. Consequently, I answer points No.1 & 2 in the negative.

AS TO POINT NO. 3 -

18] In view of my negative finding to points No.1 & 2, I am of the view that judgment and order passed by the learned trial Court is just, legal and proper and there is no need to interfere in the said order. Accordingly, point No.3 is answered in the negative. In the result, I proceed to pass the following order;

ORDER

1] Appeal stands dismissed.

- 2] The impugned Judgment and order passed by learned Judicial Magistrate, First Class, Buldhana in RCC No.91/2016 dated 12.11.2019, acquitting the accused persons of committing offences under Sections 354 r/w 34 of the IPC, is hereby confirmed.
- 3] Respondents/accused shall furnish P.B. & S.B. of 15,000/- (Rs. Fifteen Thousand only) each with one solvent surety each of the like amount as per Section 481 of The Bharatiya Nagarik Suraksha Sanhita [Section 437-A of Cr.P.C.].
- 4] Inform to the learned trial Court accordingly.
- 5] Record and proceedings be sent back to the trial Court.

Buldhana
Date:14.5.2026

(Shaikh Akbar Shaikh Jafar)
Additional Sessions Judge,
Buldhana