

CNR No. MHBU11-000024-2018



Presented on	: 09/01/2018
Registered on	: 09/01/2018
Decided on	: 13/03/2026
Duration	: Yr. Ms. Ds. 08 02 04

IN THE COURT OF SESSIONS, BULDANA
SUB-DIVISION – MALKAPUR, DISTRICT BULDANA
(Presided over by Purushottam B. Jadhav, Additional S.J., Malkapur)

CRIMINAL APPEAL NO. 04/2018

EXH. NO. 23

Sau. Archana Raju Shegokar
Age 30 Years, Occupation – Housework,
Resident of Hingana Kazi, Taluka
Malkapur, District Buldhana.

APPELLANT.

- Versus -

1. **Vijay Ramkrushna Savle,**
Age 35 Years, Occu. – Labour,
Resident of Narvel, Taluka Malkapur,
District Buldhana.

2. **State of Maharashtra.**
Through A.P.P. Malkapur.

RESPONDENTS.

Appearance : Ld. Adv. Mr. B.S. Wankhede for appellant.

Ld. Adv. Mr. S.D. Rawat for Respondent No. 1.

Ld. A.P.P. Mr. S.B. Ingle for Respondent No. 2/
State.

Judge

JUDGMENT

(Delivered on 13th March, 2026)

Feeling aggrieved by judgment and order dated 26/10/2016 passed by learned Judicial Magistrate First Class, Malkapur, District Buldhana in Regular Criminal Case No. 83 of 2014, the informant/victim has preferred the present appeal.

2) The respondent No. 1 is the original accused. By impugned judgment and order, the accused came to be acquitted of the offences punishable under Section 452, 354B of the Indian Penal Code, 1860 (For short "IPC").

The prosecution case, in short, is as under:-

3) The victim was residing along with her husband, children and mother-in-law at the above address. On 13/06/2014, at about 10.00 p.m., they all went to the bed. Her husband and mother-in-law were sleeping in the Courtyard, whereas she was sleeping along with her two children in the house. The door was closed. On 14/06/2014, at about 1.30 a.m., she woke up due to switching of the lights. She gave call to her husband by

saying that whether was he there? She heard yes. At that time, there was darkness in the house. When her saree was pulled, she realized that the person pulling her saree was not her husband. Therefore, she shouted. Then, the said person started running, she chased him and saw him in the courtyard and identified him, being her relative. He was accused. By that time, her husband got up and he tried to catch the accused, but the accused fled away. She was disturb, therefore, she did not lodge the report on 14/06/2014. On 15/06/2014, she went to the Police Station along with her husband and lodged the report.

4) It is further case of the prosecution that, on the report of the victim, Police Station Malkapur (Rural) registered Crime No. 27 of 2014 against the accused for the offences under Section 354B and 452 of the IPC. The investigation was carried out by P.S.I. Smt. Naina Deore, who visited the spot, prepared spot panchanama in the presence of two panchas, recorded the statements of the witness, and after completion of the investigation submitted the charge-sheet.

5) Learned Judicial Magistrate First Class, Malkapur

Judge

took the cognizance of the said offences and framed the charge at Exh. 12 against the accused for the said offences. It was read over and explained to the accused in vernacular. He pleaded not guilty and claimed to be tried. His plea was recorded at Exh. 13.

6) In order to prove the guilt of accused in the trial Court, the prosecution examined in all six witnesses, namely PW-1 Archana Shegokar (Exh. 17), PW-2 Raju Shegokar (Exh. 20), PW-3 Balu Bavaskar (Exh. 21), PW-4 Shravan Shirsath (Exh. 24), PW-5 Sandeep Shegokar (Exh.26) and PW6 Naina Deore (Exh.27). It also relied on the documents namely the Police Report (Exh.18), the first information report (Exh.19), spot panchanama (Exh.22) and portion mark 'A' of the statement of Shravan Shirsat (Exh.25).

7) After completion of the investigation, the statement of accused was recorded under Cection 313 of the Code of Criminal Procedure at Exh. 28. His defence is of total denial and false implication due to previous enmity of the husband of the victim with the brother-in-law of the accused. He did not lead any evidence, oral or documentary.

8) After hearing both sides, learned Magistrate acquitted the accused of the charge under Section 354B and 452 of the IPC. This is the appeal filed by the victim against acquittal of the accused. The State of Maharashtra/ respondent No, 2 supported the appeal. The accused/ respondent No. 1 resisted the appeal.

9) Following points arise for my determination and I have recorded findings thereon for the reasons stated thereunder:-

SR.NO.	POINTS	FINDINGS
1.	Whether the accused committed house trespass by entering into the dwelling house of the victim having made preparation for outraging her modesty and thereby committed the offence punishable under Section 452 of IPC?	...In the negative.
2.	Whether the accused used criminal force to the first informant by forcefully trying disrobe her by removing her saree in the darkness, intending to outrage or knowing it to	

SR.NO.	POINTS	FINDINGS
	be likely that he would thereby, outrage the modesty of her by such criminal force; and thereby committed offence punishable under Section 354B of IPC?	...In the negative.
3.	Whether the impugned judgment and order need interference?	... No.
4.	What order?	Appeal is dismissed.

REASONS

10) I have heard Mr. B.S. Wankhede, learned Advocate for the victim, Mr. S.B. Ingle, learned A.P.P. for the State of Maharashtra and Mr. S.D. Rawat, learned Advocate for the accused. I have perused the record of this appeal and that of the trial Court Proceeding.

AS TO POINT NOS. 1 AND 2 :-

11) Since the evidence and rival submissions on these points are common, they are taken together for determination.

Judge

12) Learned Advocate for the victim submitted that there is no material contradiction, omission or discrepancy in the evidence of the victim, her evidence is supported by the first information report and the evidence of her husband, there is no reason for the false implication of the accused, the spot panchanama is also duly proved and there is nothing in the evidence of the prosecution witnesses to disbelieve them. He submitted that, though the accused took the defence of previous enmity, he has not lead any evidence to prove the said defence; and there is nothing on record to prove the said defence. He submitted that however learned Magistrate did not considered these circumstances and erroneously acquitted the accused. He submitted that, therefore the impugned judgment and order may be set aside and the accused may be convicted for the alleged offences. Learned A.P.P. also made similar submissions.

13) Learned Advocate for the accused submitted that, the prosecution came with the case that the accused entered into the house of the victim during the night hours, but did not explain how the accused opened the door, when

the victim was sleeping in the house by closing the door. He further submitted that, according to the prosecution case itself, the husband and mother-in-law were sleeping in the courtyard of the house of the victim, but it did not explain how anyone could enter in the house in such situation.

14) Learned Advocate for the accused further submitted that, there are discrepancies in respect of the doors of the house in the evidence of the victim and that of her husband. He also submitted that the presence of other witnesses is also doubtful since they are residing far away from the house of the victim. He also submitted that there are material condition and omissions in the evidence, there is delay in lodging F.I.R. and it is not explained satisfactorily. He also submitted that the accused is falsely implicated in the case due to previous enmity. He submitted that, the trial Court considered all the evidence, circumstances and rival submissions; and rightly acquitted the accused, therefore there is no need of disturbing the impugned judgment and order.

15) I considered the rival submissions carefully. The perusal of the evidence of the victim/PW-1 (Exh.17) shows

that, she deposed in tune of her report; and proved her report (Exh.18) and the first information report (Exh.19). In her cross–examination, she stated that, there is only one door to her house. According to her report, she had closed the door and was sleeping in the house along with children, whereas her husband and mother-in-law were sleeping outside the house. In the cross–examination, she stated that, the accused had entered in her room from the door of the room in front of which, her husband and mother-in-law were sleeping. If these circumstances are considered, they raises reasonable doubt about the incident since it is highly impossible to enter into the house by crossing the sleeping husband and mother-in-law of the victim; and then opened the door. It is tried to submit that, the door was not latched from the inside and it was just closed and it was possible to open it by pushing it. It may be noted that in the night hours, the people do not keep the doors of their houses without latching.

16) It also to be noted that, according to the victim, when the accused entered in her house, there was darkness since the lights were switched of. She also stated that when the lights were switched of, she asked if he was her

husband. That means, it was so dark that no one could identify other person in the house. If this version is accepted, the question arises how in such darkness, the accused entered in the house?

17) As stated above, according to the victim, there was only one door to her house. However, the spot panchanama (Exh.22) falsifies this version of the victim as the spot panchanama indicates that there were two doors to her room, where she was sleeping. This circumstance show that she is hiding something in her evidence.

18) According to the defence, the husband of the victim had dispute with Sanjay Shriram and Sunil Shriram over agricultural land and the accused is their relative, therefore, the accused is falsely implicated in this case. Such suggestion was denied by the victim in her cross-examination, but her husband admitted the fact of the dispute and relationship of the accused. This circumstance also show that, the victim is not telling the truth before the Court.

19) Undisputedly, the first information report was lodged 37 hours after the incident. The victim tried to

explain it by stating that she was mentally disturb. It may be noted according to the victim herself, her husband and her mother-in-law were present at the house since occurrence of the incident. It is not the case that they did not support her. Her husband himself accompanied her to the police station. Therefore, the reason cited by her for delay in lodging FIR does not appeal. Hence, it has to be held that the delay is not satisfactorily explained.

20) PW-2 Raju Shegokar (Exh.20) is the husband of the victim. In examination-in-chief, he deposed in tune of the prosecution case. In cross-examination, he admitted that he had dispute with Sanjay Shriram and Sunil Shriram over agricultural land and the accused is their relative. According to the evidence of the husband of the victim, he chased the accused, but he could not catch him. In cross-examination, he admitted that he was knowing the house of the accused, he had been there, but the door of the said house was closed. In such circumstances, any person would have inquired about the accused. But her husband admitted that he did not inquire there about the accused. He also admitted that he did not try to search the accused. As

stated above, the spot panchanama (Exh.22) indicates that there were two doors to the room, but PW-2 also denied that, there were two doors to the room. These circumstances create serious doubt about the testimony of the husband of the victim.

21) PW-5 Sandeep Shegokar (Exh. 26) deposed that he had been to the house of the victim after call given by her husband. He deposed that then her husband narrated the incident. That means, he is not the eyewitness and his evidence is hearsay in nature. Undisputedly, he is cousin of her husband.

22) It is tried that the prosecution examined independent witness namely PW-4 Shravan Shirsath (Exh.24) and he fully supported the prosecution. Perusal of his evidence shows that, he had been to the spot after occurrence of the incident along with one Sandeep Shegokar; and at that time, the husband of the victim narrated the incident. That means, he is not eyewitness and his evidence is hearsay in nature.

23) PW-3 Balu Bawaskar (Exh.21) is the panch witness. By examining him, the prosecution proved the spot

panchanama (Exh. 22). But there is nothing in the panchanama against the accused. On the contrary, the circumstances appearing in the panchanama i.e. the doors of the house, contradict the evidence of the victim and her husband. PW–6 Nayana Deore (Exh. 27) is the Investigation Officer. Her evidence is regarding drawing of the panchanama and recording of the statements of the witnesses. In absence of the cogent and credible evidence of other witnesses, her evidence cannot help the prosecution because it is formal in nature.

24) The aforesaid discussion shows that there is no cogent and credible evidence on record. The evidence of the victim and her husband does not appear truthful. There are number of circumstances in their evidence, which creates serious doubts about their evidence. Therefore, I have no option, but to hold that the prosecution failed to prove any offence against the accused beyond reasonable doubt. Accordingly, I record negative findings on point Nos. 1 and 2.

AS TO POINT NOS. 3 AND 4 :-

25) In view of the finding on point Nos. 1 and 2, this

Judge

Court held that the prosecution failed to prove any offence against the accused beyond reasonable doubt. Therefore, the accused is entitled to acquittal. The trial Court did the same thing; therefore, the impugned judgment and order need no interference. There is no sufficient ground for interfering the impugned judgment and order. The appeal deserves to be dismissed. Accordingly, I record findings on these points and pass the following order:-

ORDER

- 1) Criminal Appeal No. is 4 of 2018 is dismissed under Section 386 of the Code of Criminal Procedure, 1973.
- 2) The bail bonds of the accused/Respondent No.1 stand cancelled.
- 3) He shall be set at liberty.
- 4) The trial Court R & P shall be sent back along with the true copy of this judgment and order.
- 5) Criminal Appeal is disposed of accordingly.

Malkapur
Date – 13/03/2026.

(Purushottam B. Jadhav)
Additional Sessions Judge,
Malkapur.

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CERTIFICATE

I certify that this order P.D.F. uploaded is a true and correct copy of original signed order.

Name of Court	:	Additional Sessions Judge, Malkapur.
Name of Stenographer	:	Miss H.D Chaudhari, Stenographer Grade I.
Date of order	:	13/03/2026.
Date of Uploading	:	14/03/2026.