

MHKO010054692018



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Duration :- Y. M. Ds.
07 02 14

IN THE COURT OF SPECIAL JUDGE, KOLHAPUR,
AT KOLHAPUR

(Presided over by **Smt. Kavita B. Agrawal**–Special Judge)

Special Case No. 108/2018.

Exh.No.81/A

(C.R. 326/2018 at
Shahuwadi Police Station,
District : Kolhapur.)

Complainant	The State of Maharashtra,
Represented By	Smt. A. A. Kulkarni, Ld.APP for the State.
Accused	Rakesh Chandrakant Patil, Age : 26 Yrs., Occu. Labour, R/o. Shirgaon, Tal. Shahuwadi, Dist. Kolhapur.
Represented By	Shri.C. R. Budhale Learned LADC for accused

**Offences punishable U/Secs. 354, 354
(D) of the IPC, U/Sec. 12 of the POCSO
Act and U/Sec.3 (1) (w) (i) (ii) and U/Sec.
3 (2) (va) of SCST Act and U/Sec. 3 (1)/181
of Motor Vehicle Act.**

Date of offence	28/10/2018
Date of FIR	28/10/2018
Date of Chargesheet	24/12/2018
Date of Framing of Charges	06/02/2021.
Date of commencement of evidence	13/09/2023
Date on which judgment is reserved	12/03/2026.

Date of the Judgment	12/03/2026.
Date of the Sentencing Order, if any	----

Accused Details

Sr. No.	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sen tence Impo sed	Period of Detention Undergone during Trial for purpose of Section 428, Cr. P. C.
1	Rakesh Chandrakant Patil	28/10/2018	07/12/2018.	U/Secs. 354, 354 (D) of the IPC, U/Sec. 12 of the POCSO Act and U/Sec.3 (1) (w) (i) (ii) and U/Sec. 3 (2) (va) of SCST Act and U/Sec. 3 (1)/181 of Motor Vehicle Act.	acquitted	----	1 month 10 days

A. List of prosecution witnesses:

Rank	Name	Exh. Nos.	Nature of Evidence
PW1	The victim	28	The victim Child
PW2	Uncle of the victim	44	Informant, lodged report (Exh.45)
PW3	Yashwant Lumaji Kamble	53	Panch on spot panchanama
PW4	Sanjay Chintu Kamble	58	Panch on seizure panchanama of chits
PW5	Dy. S. P. Shri. R. R. Patil	67	Investigating Officer

A. Prosecution exhibits :

Sr.No.	Exh. Nos.	Description.
1	P-6	Statement U/Sec. 164 of Cr. P. C. of the victim
2	P-7	Statement U/Sec. 164 of Cr. P. C. of the uncle of the victim
3	Art. -D	Caste Certificate of the uncle of the victim

4	Art. -D	Caste Certificate of the victim.
5	P-39/PW1	Birth Certificate of the victim
6	P-40/PW1	Chit
7	P-45/PW2	Report dtd. 28/10/2018
8	P-50/PW2	Caste Certificate of the uncle of victim
9	P-54/PW3	Spot panchanama dtd. 29/10/2018
10	P-59/PW4	Seizure panchanama of chits
11	P-60/PW4	Samples handwriting of the accused
12	P-61/PW4	Seizure Panchanama of sample handwriting of accused.
13	P-68/PW5	Written order of investigation.
14	P-69/PW5	Panchanama of specimen handwriting of accused
15	P-70/PW5	Panchanama of natural handwriting of accused
16	Art. D.-1	Copy of School leaving certificate of accused
17	Exh.80	Handwriting Expert report.

Prosecution has closed its evidence by filing pursis below Exh. P-73.

D. Material Objects :

Sr. No.	MO/ Article Nos.	Discription
1	1	Hero Honda Splendor MH-02-BN-4513
2	2	Page of notebook
3	3	Six pages of notebook of accused
4	4	Sample handwriting of accused
5	5	Micro SD card
6	6	One page of note book

– J U D G M E N T –

(Delivered on **12th March, 2026**)

Accused **Rakesh Chandrakant Patil** is facing trial for the offences of committing outraging modesty, stalking and sexual harassment of minor victim aged about 12 years and 4 months who belongs to SCST community.

02. Prosecution case in nutshell is as follows -

Informant/uncle (PW2) of the victim R/o. Shi****, Tal. Shahuwadi, Dist. Kolhapur has lodged report on 28/10/2018 at Shahuwadi police station. It is contended that, he belongs to Schedule Cast i.e. Chambhar and used to reside along with his mother, son and niece/victim aged about 12 years. The parents of the victim have left the house when victim was aged about a year. Date of birth of victim is 25/06/2006.

(a) He acquainted with accused Rakesh Chandrakant Patil as he is resident of village. Prior to one year, victim has informed him that, while she was going to school, accused Rakesh used to follow her. Thereafter, he gave understandings to the accused. On 28/10/2018 at about 7.00 a.m. he has gone for work. At about 12.15 noon his mother has come at his workplace and informed that, when the victim was washing the cloths in courtyard of their house, accused Rakesh came on motorcycle and threw a chit on victim's person. Victim handed over said chit to her. Informant read said chit wherein accused Rakesh expressed his love towards victim. Immediately, he rushed towards house. On enquiry, victim revealed that, at about

12.00 noon when she was washing cloths, accused came on motorcycle from Boudh Samaj road and threw chit on her person and fled away. Thereafter, informant along with victim has gone to Shahuwadi police station and lodged report (Exh.P-45/PW2).

03. The PSO Shahuwadi Police Station has recorded the report (Exh. P-45/PW2). The investigation was handed over to Dy. S. P. Shri. R. R. Patil. During investigation, statement of the victim was recorded in his presence. He has verified the report through informant/uncle. He conducted the spot panchanama in presence of panchas. He arrested the accused. He also referred the victim and informant for recording statement U/sec. 164 of Cr. P. C. before JMFC, Malakapur-Shahuwadi. He seized chit thrown by accused under seizure panchanama and also obtained sample handwriting of accused. After completing other formalities, he filed charge sheet against accused.

04. The charge (Exh.4) was framed against accused for the offences punishable U/Secs. 354, 354 (D) of Indian Penal Code ('IPC' for short) and U/Secs. 12 of Protection of Children from Sexual Offences Act, 2012 ('POCSO' Act for short) and U/Sec.3 (1) (w) (i) (ii) and U/Sec. 3 (2) (va) of SCST Act and U/Sec. 3 (1)/181 of Motor Vehicle Act. To this, the accused denied *vide* plea (Exh.5) and claimed to be tried. Prosecution has examined five witnesses and closed its evidence *vide* pursis (Exh.73). Statement U/Sec. 313 of Cr. P. C. of accused was recorded. His defence is of false

implication in view of political rivalry and with intent to harass him.

05. Heard, Smt. A. A. Kulkarni, learned A.P.P. for the State and Shri. C. R. Budhale, Ld. LADCS for accused.

06. Ld. APP Smt. A. A. Kulkarni has vehemently submitted that, to prove the offence of outraging the modesty of woman, the testimony of victim is utmost important. The sole testimony of the victim is sufficient to prove the charge against the accused. She has taken me through the testimony of victim child and informant/uncle. She has submitted that, the victim has categorically stated about the acts committed by accused. The testimony of the victim child is not shattered through out her cross-examination. The spot of incident is proved through the testimony of independent panch witness Yashwant (PW3). Through the report of Handwriting expert, the prosecution has proved that the alleged chit was written by the accused. Lastly, she argued that the prosecution has proved its case beyond reasonable doubt and prayed to convict the accused.

07. Ld. Adv. Shri. C. R. Budhale for the accused has vehemently submitted that, the investigating officer has not recorded the statement of independent witnesses. The victim during testimony deposed that, she has gone to school along with her friend. However, no statement of said friend of victim was recorded by IO. The case of the prosecution is solely based on the alleged chit. However, the alleged handwriting is not proved by the prosecution

through the testimony of Handwriting Expert. Defence has brought the theory of political rivalry between two groups of which accused belongs to one opposite party. The informant himself has admitted that though the accused Rakesh was harassing his niece from last one and half year no report was lodged either by himself or by victim. There is delay in lodging the report. The spot panchanama only prove the spot and no incriminating articles were found on spot. The expression of love, does not come within the purview of offence of outraging the modesty of woman. In support he relied on ratio held by Hon'ble Bombay High Court in case of ***Ravindra Laxman Narete Vs. State of Maharashtra, 2025:BHC-NAG:6106***. Lastly, prayed to acquit the accused.

o8. Following points arise for determination. My finding against each point are as under for the reasons given below:

Sr. No.	Points	Findings
1.	Does prosecution prove that on 28/10/2018 the victim was child?	Yes.
2.	Does prosecution prove that on 28/10/2018 at about 12.00 noon in front of house of the victim at village Sh***, Tal. Shahuwadi, Dist. Kolhapur, when victim was washing cloths in the courtyard of her house, accused Rakesh in spite of knowing the fact that victim belongs to scheduled caste, thrown chit contending message 'V***, I love you etc.' with intend to outrage her modesty and cause sexual harassment?	No.

3	Does prosecution prove that, prior to one year of 28/10/2018 accused Rakesh used to follow the victim when she has gone to her school and caused sexual harassment on her?	No.
4	Does prosecution prove that on the aforesaid date, time and place accused Rakesh drove motorcycle bearing No. MH-02-BN-4513 without having valid license?	No.
5	What order?	Accused is acquitted

- REASONS -

Admitted Facts :-

09. The accused Rakesh and the victim and informant/uncle are the resident of same village and well known to each other. It is not disputed that, the victim belongs to Scheduled Caste and accused belongs to Maratha community.

As to point No. 1 :-

10. To prove the age of the victim, the prosecution has relied on the Birth certificate (Exh. 39) issued by Grampanchayat Shirgaon, Tal. Shahuwadi. It is the testimony of the victim (PW1) that her date of birth is 25/06/2006 and she belongs to Hindu-Chambhar caste. In the year 2018, she used to reside with her grandmother and paternal uncle. She was studying in 7th standard in Vidyamandir. The birth certificate was exhibited in the

testimony of this victim girl. However, the defence has strongly objected to exhibit the same.

11. Perusal of birth certificate (Exh.39) reveals that, it was issued by concern Grampanchayat on 01/11/2018. The report in this case was lodged by the Uncle of the victim on 28/10/2018 pertaining to the alleged incident which occurred in afternoon. Thus, the birth certificate (Exh.39) procured in present case was issued subsequent to the lodging of present report. According to the contents, the registration of date of birth was made on 01/07/2011. However, the contents of the above birth certificate were not duly proved by the prosecution by examining the concerned public officer maintaining the birth register of village Shirgaon. Not only this, the prosecution has not even produced on record any document issued by school where the victim was studying, to corroborate the date of birth mentioned in birth certificate with the school record and that the same is pertaining to the victim and victim alone.

12. Though the oral testimony of the victim corroborates with the contents of birth certificate (Exh.39), but the contents of the birth certificate are not duly proved. During her cross-examination, she showed her ignorance about her place of birth. She denied the suggestion that, 25/06/2006 is not her real date of birth and that the certificate (Exh.39) is false.

13. Even if for the time being the birth certificate (Exh.39) is admitted to be true, being extract of public record maintained by public officer it is relevant U/Sec. 35 of Indian Evidence Act. As per the contents and date of birth mentioned in said certificate, on the date of incident i.e. 28/10/2018, the victim was a child and below 16 years of age but not below 12 years of age. Thus, though the prosecution has not properly proved the contents of birth certificate as the same is relevant and admissible U/Sec. 35 of IEA and considering the nature of offence, this Court has no hesitation to rely on the same. Thus, at the time of alleged incident in the year 2018, the victim was child below 16 years of age. As such, I answer point No. 1 in the **affirmative.**

As to point Nos. 2 to 4 :-

14. The testimony of the victim (PW1) is material as regards the offence of outraging modesty. In her testimony before Court, the victim (PW1) deposed that, while she was studying in 6th standard, accused used to follow her. She has accosted him not to follow her, however, the accused kept following her. This led her to disclose about the behaviour of accused to her Uncle/informant (PW2). Her uncle, in turn, accompanied with villagers, gave understanding to the accused Rakesh. However, there was no change in conduct and behaviour of accused. As regards the alleged incident dtd. 28/10/2018 the victim deposed that, she and her grandmother were only present at home as it was Sunday. At about 12.00 noon she came in front of

their house for washing cloths. At that time, accused came in front of their house by motorcycle and while proceeding ahead he threw chit (Exh. 40) on her person. She further deposed that, in said chit, love was expressed towards her along with drawing of heart and rose.

15. It is to be seen as to how the victim travels through the test of cross-examination. As regards the spot of incident the victim has admitted that, her house is facing towards east and there is main road in front of her house. Prior to it there is 20 feet open space without any compound wall or wire fence. The washing area is situated in front of her house. She denied the suggestion that, she usually washes the cloths when there is water supply. There are about five to six houses in same lane in her neighbourhood.

16. Victim's previous statement U/Sec. 164 of Cr. P. C. (Exh.6) dtd. 19/12/2018 was recorded by JMFC, Shahuwadi. Perusal of said statement reveals that, the victim (PW1) has nowhere stated that the accused Rakesh was following her on her way to school, when she was studying in 6th standard. It further reveals that, on the alleged date of incident dtd. 28/10/2018 she was studying in same school, but it was nowhere deposed as to in which class she was studying in the year 2018. Moreover, there is no whisper in her previous statement that accused used to follow her on her way to school. Thus, there is material improvement in the testimony of the victim. It is also pertinent to note that, the victim has already admitted that,

her school is situated at a walking distance of 10 minutes from her house. There are neighbouring houses in the same lane. Most importantly, her two friends used to accompany her to and fro from school. In such circumstances, it cannot be relied upon that, when victim was accompanied by her friends and there are houses in neighbourhood, the accused would follow victim and still no person has noticed or witness any incident of stalking. There is no independent corroboration to the alleged contention of the victim. Moreover, this contention is entirely missing in her previous statement before JMFC (Exh.6) and 161 statement. Thus, there is material improvement in the testimony of victim (PW1) as regards the alleged act of following and stalking by accused and that too prior to a year of lodging of report. Though it was stated by informant and victim that some understanding was given to accused Rakesh regarding alleged conduct, however, no complaint, either oral or written, was made to Sarpanch or Tanta Mukti Samitee.

The victim has admitted that, even in her previous statement before the police, she has not revealed about any following by accused on her way to her school or while returning.

17. In this regards if one peruse the testimony of Uncle (PW2), it is his contention that since prior to a year of lodging of report, accused Rakesh used to follow her niece. In this regard, he and his family members have gone to the house of accused to give him understanding.

Though, the said contention finds place in report (Exh.45) lodged by uncle, there is no whisper in his statement U/Sec. 164 of Cr. P. C. (Exh.7). In said statement it is contended that, prior to two years such following by accused has taken place and accused was taken to police station and due to mediation by villagers understanding was given to accused. However, neither independent witness has been examined by the prosecution nor statement of any witnesses was recorded. There is discrepancies in previous statement and contents of report as well as testimony before the Court. Thus, the probability that, there are exaggeration of facts by the prosecution and by the victim and her uncle as regards stalking or following of accused cannot be ruled out. As such, in this regard no implicit reliance can be placed on the testimony of the victim or her uncle.

18. As per the testimony of victim and prosecution case, the main incident has occurred on 28/10/2018 at about 12.00 noon in front of victim's house. It is her contention that, the accused has come from Baudh Samaj Mandir road and while proceeding from front of her house, he threw 'chit' (Exh.40). The testimony of the victim was also corroborated by the informant in this regard. The same chit was taken by victim's grandmother to the workplace of the informant (PW2). After returning home, informant/uncle and the victim went to police station where the uncle lodged report. It is pertinent in the above context, whether throwing a chit, wherein a person express

his love, amounts to sexual harassment? During her cross-examination, the victim has given material admissions that, she has no reason to see or know the handwriting of the accused Rakesh. The victim admitted that, Chit (Exh.40) neither bears the name nor any signature of accused. In spite of above, if for the time being it is admitted that, the contents of the chit were written by accused, it is necessary to go through the same.

I have carefully gone through contents of said chit. It is titled as 'I Love You' by naming the victim. However, after going through the 10 to 12 lines contents, the writer only expresses his love feelings that '*if she loves him, love forever and if she doesn't love him, he would not show his face to her*'. Close scrutiny of contents of chit, nowhere reveals 'sexual intent' on the part of accused. The very crux of the offence is presence of sexual intent on the part of the accused towards the victim. Hon'ble Bombay High Court in case of ***Bandu Vitthalrao Borwar Vs. State of Maharashtra, 2016 DGLS (Bom.) 1886*** it has held that,

"The clauses and the explanation of Sec. 11 of POCSO Act, shows that, the expression 'sexual intent' has been made question of fact by legislature and it has not confined the meaning of 'sexual intent' in any predetermined format or structure. It is left to be determine by the Court in the light of facts and circumstances of each case. It is further observed that, intention of a person is state of mind and has to be gathered from the surrounding facts and

circumstances. What is going on in the mind of wrongdoer can surely be known by evaluation all that, it is perceivable or felt by human senses, such as words, body language, gestures, reactions and everything that is physical manifestation of working of human mind.

19. Merely expressing love by youngsters towards another would not amount to outraging the modesty or sexual harassment. The accused only wants to know whether the victim was having any feeling towards him or not, and nothing more. The above act of accused is not accompanied by any further act which can demonstrate sexual intent or insistence of same in spite of denial by victim. Moreover, the victim has given material admission that she has no reason to know the handwriting of the accused.

20. To prove the seizure of chits, the prosecution has examined Sanjay Kamble (PW4). During testimony Sanjay (PW4) has deposed that, police has called him at police station and in his presence, informant (PW2) has produced 'Chit' (Exh.40), the same was seized by police under panchanama (Exh.59). Thereafter, on 21/12/2018 accused again called him and on that day, father of accused has produced samples of natural handwriting of accused Rakesh the same were seized under panchanama (Exh.60). The police recorded the panchanama of seizure of sample handwriting of accused below Exh. 61. During cross-examination, Sanjay (PW4) has admitted that, the samples

were not sealed by Lakh seal. However, he denied the suggestion that, the panchanamas were recorded in the police station itself. During recording of statement U/Sec. 313 of Cr. P. C., accused has denied that he has written said chit (Exh.40). Considering the overall testimony, it can be said that, the prosecution has proved the seizure of chit and sample and specimen handwriting of accused through various panchanama.

21. As per the testimony of IO Shri. Patil (PW5) the specimen (S-7 to S-11) handwriting of accused was taken and the same was forwarded to Handwriting Expert, Pune. Handwriting experts opinion is filed on record below Exh. 80. It shows that, there is similarity in writing in Q-1 (Chit Exh.40) and the S-1 to S-6 (sample handwriting of accused). Thus, on the basis of said report, the probability that the accused is the author of said chit (Exh.40) cannot be ruled out. However, as discussed above, the chit (Exh.40) does not contains any obscene or offensive material which may outrage the modesty of woman or cause her sexual harassment.

22. The prosecution has examined Yashwant (PW3) on the point of spot panchanama. He deposed that, he alongwith police has gone to village Sh***. The informant has shown the spot. The spot of incident was situated in front of house of informant, there are two stairs and adjacent to it there is washing area. In front of said house, the road from Sh*** Fata to Sh*** road proceeds and the same is concrete road. Nothing incriminating was

notice i.e. tyre marks of two wheeler near said house. Thus, through the testimony of this witness prosecution has only proved the spot of incident.

23. The testimony of the IO Shri. R. R. Patil (PW5) only speaks about the procedure carried out by him during investigation. He has send the chit and other samples of handwriting to Handwriting Expert. It is not a substantive piece of evidence. It is of formal nature. Thus, merely on the basis of evidence of IO (PW5) it cannot be said that, the accused has committed the offence of outraging of modesty or sexual harassment on victim child.

Conclusion :-

24. Conspectus of the above discussion is that, the prosecution has put forth the case of outraging of modesty of the victim aged about 12 years on the basis of testimony of the victim and informant. In cases pertaining to the outraging modesty of woman, sole testimony of victim is sufficient to hold the accused guilty if the same inspire confidence. However, in the present case neither the testimony of the victim nor the informant does not inspire any confidence as there is no consistency and the probability of exaggeration of facts cannot be ruled out. So also, mere expression of love does not come within the purview of outraging the modesty of woman. The accused during his statement U/Sec. 313 of Cr. P. C. stated about the false implication due to political rivalry. The possibility of exaggeration of small fact to increase the gravity of offence cannot be ruled out. No independent witnesses

have been examined as regards following way of victim. The prosecution has failed to prove that the accused was riding the motorcycle, its RC particulars or with out valid license. As such, no overact is proved against the accused. Considering the facts of the present case, this Court, is of the opinion that, the prosecution has miserably failed to prove the alleged overact on the part of accused amounts to outraging of modesty or was with sexual intent. Hence, I answer the point Nos. 2 to 4 in the **negative**.

Disposal of Muddemal :-

25. MO1 Hero Honda Splendor Motorcycle bearing No. MH-02-BN-4513 is required to be return to its registered owner, if not already handed over.

26. MO2 to MO4 and MO6 are the 'Chit', sample specimen of natural handwriting and they are exhibited below Exh. 40, 69 and 70 respectively. Hence, they are required to be kept with record.

27. MO5 Micro 8 GB memory card required to be destroyed by following due procedure, after expiry of one year of appeal period.

As to point No. 5 :-

28. In view of my findings to point Nos.2 to 4, the prosecution has failed to prove the alleged acts of outraging modesty and sexual harassment as against the accused and hence, he is entitled for the acquittal. Hence, following order.

– **ORDER** –

1. Accused **Rakesh Chandrakant Patil** acquitted under section 235 (1) of the Code of Criminal Procedure of the offences punishable U/Secs. 354, 354 (D) of the IPC, U/Sec. 12 of the POCSO Act and U/Sec.3 (1) (w) (i) (ii) and U/Sec. 3 (2) (va) of SCST Act and U/Sec. 3 (1)/181 of Motor Vehicle Act.
2. Bail bonds of the accused stands cancelled.
3. The accused shall execute bail bond under Section 437-A of the Code of Criminal Procedure, in the sum of Rs.10,000/- each with one surety in the like amount to appear before the higher Court. The said bail bond shall be in force for six months.
4. MO1 Hero Honda Splendor Motorcycle bearing No. MH-02-BN-4513 be return to its registered owner, if not already handed over.
5. MO2 to MO4 and MO6 are the 'Chit', sample specimen of natural handwriting of accused and they are exhibited below Exh. 40, 69 and 70 respectively. Hence, be kept with record till disposal of 'C' file.
6. MO5-Micro 8 GB memory card be destroyed by following due procedure, after expiry of one year of appeal period.

7. Copy of this judgment be sent to the District Magistrate, Kolhapur vide Section 365 of Cr.P.C. The District Magistrate, Kolhapur shall submit compliance report to this court.
8. Special Case No. 108/2018 is disposed of.
(Pronounced in open court).

Date : 12-03-2026.
Kolhapur.

(Smt. Kavita B. Agrawal)
Special Judge, Kolhapur.