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	Duration	Ys. Ms. Ds. 01 07 05

Part 'A'

<p><u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE,</u> <u>AT GADHINGLAJ, DISTRICT -KOLHAPUR</u> [Presided over by M. A. Shinde]</p> <p><u>J U D G M E N T</u> (Delivered on 17th March, 2026)</p> <p><u>Sessions Case No.20/2024</u> <u>Exh.No. 100/A</u></p>	
<p>Details of FIR C.R.No.352/2024 Gadhinglaj Police Station, District-Kolhapur.</p>	
PROSECUTION	The State of Maharashtra Through Police Station Officer, Police Station, Gadhinglaj, Tal. Gadhinglaj, District – Kolhapur.
REPRESENTED BY	Shri. S.A.Teli, Additional Public Prosecutor for the State.
ACCUSED	<ol style="list-style-type: none"> 1. Shridhar Arjun Shingate, Age 35 Years, Occu. Transport , R/o. Inchanal, Tal. Gadhinglaj, Dist. Kolhapur. 2. Rahul Netaji Musale, Age 29 Years, Occup. Driver, R/o. Inchanal, Tal. Gadhinglaj, Dist. Kolhapur.

REPRESENTED BY	- Shri. A.T. Matale, Advocate for the accused Nos.1 and 2.
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Part 'B'

Date of offence	05/06/2024
Date of FIR	05/06/2024
Date of Charge-sheet	12/07/2024
Date of Framing of Charges	15/01/2025
Date of commencement of evidence	16/07/2025
Date on which judgment is reserved	27/02/2026
Date of the Judgment	17/03/2026
Date of the Sentencing Order, if any	--

Accused Details

Rank of the accused	Name of accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.PC.
1)	Shridhar Arjun Shingate	14/09/2024	UTP	U/s. 376, 323, 506 r/w.34 of the IPC	Acquitted.	-	--
2)	Rahul Netaji Musale	05/06/2024	31/08/2024	-.	-.	-	--

Part 'C'**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution:-**

RANK	NAME	NATURE OF EVIDENCE
PW-1	Jotiba Ganpati Mohite	Panch witness.
PW-2	Victim	First Informant.
PW-3	Vinayak Devaram Kamble	Panch witness.

PW-4	Janaba Ganpatrao Khot	Landlord of Victim (PW2)
PW-5		Friend of Victim (PW2)
PW-6	Dr. Poonam Gajanan Desai	Medical Officer
PW-7	Prashant Bhimrao Nishandar	Investigating Officer - I
PW-8	Sagar Vasant Patil	Investigating Officer - II

B. Defence Witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE
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C. Court Witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE
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LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS.**A. Prosecution:-**

Sr.No	Exhibit Number	Description
1)	42	Spot panchanama.
2)	47	FIR in C.R.No.293/2024.
3)	48	FIR.
4)	49	Printed FIR.
5)	50	Statement of witness victim u/s.164 of Cr.PC.
6)	51 to 53	N.C. reports.
7)	56	Seizure panchanama of pen drive.
8)	57	Certificate dated 30/10/2024.
9)	62	Statement of accused dated 06/06/2024.

10)	63	Seizure panchanama of motorcycle.
11)	69	Letter/Yadi dated 05/06/2024.
12)	70	Report of Medical Officer.
13)	71 to 73	C.A. reports dated 15/04/2025.
14)	77	Order dated 05/06/2024 for investigation.
15)	78	Spot panchanama.
16)	79	Certificate U/s.65-B of the Indian Evidence Act.
17)	80	Bill of photos.
18)	81	Arrest panchanama dated 05/06/2024.
19)	82	Muddemal receipt.
20)	83	Seizure panchanama of clothes.
21)	84	Muddemal receipt.
22)	85	Muddemal receipt.
23)	86	Letter dated 06/06/2024.
24)	87	Remand report dated 06/06/2024.
25)	88	R/Letter dated 06/06/2024 issued to Irrigation Department.
26)	89	R/Letter dated 06/06/2024 issued to S.P of Kolhapur regarding CDR.
27)	90	R/Letter dated 13/06/2024 issued to S.P of Kolhapur regarding CDR.
28)	93	Arrest panchanama dated 14/09/2024.

B. Defence:-

SR.NO.	Exhibit Number	Description
-	-	-

C. Court Exhibits:-

SR.NO.	Exhibit Number	Description
-	-	-

D. Material Objects:-

SR.NO.	Exhibit Number	Description
1.	Article – ‘A’ Collectively.	Photographs of the spot of incident.
2.	PW-2/MO-1	Spade.
3.	PW-2/MO-2	Knicker.
4.	PW-2/MO-3	Palazzo pant.
5.	PW-2/MO-4	T Shirt.
6.	PW-2/MO-5	Bra.
7.	Article – ‘B’	Pen drive.

J U D G M E N T

(Delivered on 17th March, 2026)

1. On 05/06/2024 the victim lodged FIR with Gadhinglaj Police Station at about 9.17 p.m. vide its crime No.352/2024 for the offence punishable under Sections 376, 323, 506 read with 34 of the Indian Penal Code, 1860 (“IPC” for short) against both the accused.

2. It is the case of the prosecution that, the victim is residing on rented basis at Vadarge road Gadhinglaj. Shridhar (A-1) was acquainted with her. They have friendly relationship with each other. Subsequently, he was in Jail, therefore, she was not in his contact. After releasing from the Jail, Shridhar (A-1) started chasing her and once he outraged her modesty in a public place and therefore, she lodged FIR against him with Gadhinglaj Police Station and Shridhar (A-1) came to be arrested in connection with the said crime. Subsequently, he was released on bail.

(2.1) On 05/06/2024 at about 3.00 p.m. she was drying chillies on terrace of her rented house. She was cleaning chillies. Shridhar (A-1) came there along with Rahul (A-2). Shridhar (A-1) started arguing with her. He offered to reside jointly. She refused the same. He pushed up her against a wall. She warned him that, she would yell, but he did not listen to her.

(2.2) Suddenly, the rain started, therefore, she collected and kept the chillies in a storeroom. Shridhar (A-1) entered into the store room. He latched the door from the inside. She was yelling for help. He picked up spade and threatened to kill her, if she raise any voice. He pushed her on a gunny bag of the chillies, removed her pant and committed rape. Thereafter, he left the place on a motorcycle ridden by Rahul (A-2), who was waiting on the ground floor of the building. Hence, the FIR.

3. Rahul (A-2) came to be arrested immediately. The victim was referred for medical examination to the Sub District Hospital, Gahinglaj. Her medical examination was conducted. Necessary medical report was obtained. Shridhar (A-1) was absconding for considerable period. Meanwhile, necessary panchanamas were prepared. Statement of witnesses were recorded. Samples of blood, vaginal swab, etc. of victim were sent to C.A. Kolhapur and after completion of investigation the police have filed charge-sheet against the Rahul (A-2) in the Court. Subsequently, Shridhar (A-1) also came to be arrested. A supplementary charge-sheet was filed by the police in the Court.

4. During the course of the investigation of the present case Rahul (A-2) was released on bail. But, the bail applications moved by Shridhar (A-1), initially prior to his arrest for anticipatory bail and subsequently after the arrest the regular bail, were rejected. Therefore, the trial of the Shridhar (A-1) is conducted as an under trial prisoner.

5. After opening of the case by the prosecution, the charge was framed at Exh.24 against the accused for the offence punishable under Sections 376, 323, 506 read with 34 of the IPC. Particulars of the charge are read over and explained to the accused. The accused pleaded not guilty and claimed to be tried. The defence of the accused is of false implication and total denial. Shridhar (A-1) has taken specific defence that, he has filed complaint-application against number of Police Officers of the Gadhinglaj Police Station and therefore, in order to implicate in a false case, the police have used the victim as a tool and falsely implicated him in the present case.

6. Perused the record. Heard both parties. Following points arise for determination and my findings thereon recorded with reasons are as under –

<u>SR. NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Does the prosecution prove that, on 05/06/2024 at about 3.00 p.m. accused went to the rented house of the victim situated at Wadarge road, at the side of the Krushi Sanshodhan Kendra, Gadhnglaj, and Shridhar (A-1) committed rape on the victim and Rahul (A-2) kept watch at the entrance of the building and thereby committed an offence punishable under Section 376 of the IPC?	In the negative.
2.	Does the prosecution prove that, on the aforesaid day, date, time and place, the accused in furtherance of their common intention voluntarily caused hurt to the victim and thereby committed an offence punishable under Section 323 r/w.34 of the IPC?	In the negative.
3.	Does the prosecution prove that, on the aforesaid day, date, time and place, the	In the negative.

	accused in furtherance of their common intention committed criminal intimidation by giving threat to the victim, with intent to cause alarm to her and thereby committed an offence punishable under Section 506 r/w.34 of the IPC?	
4.	What order?	The accused are acquitted.

REASONS

As to Point Nos.1 to 3 :-

A) Evidence of the Prosecution :-

7. The golden principle of Criminal law laid down by the The Hon'ble Supreme Court in ***Tukaram Vs. State of Maharashtra, AIR 1979 SC 185*** is to be kept in mind wherein the Hon'ble Supreme Court has held that,

“ It has to be borne in the mind that the onus is always on the prosecution to prove affirmatively each ingredient of the offence it seeks to establish and that such onus never shifts”.

Thus, keeping in view the said golden principle of criminal law the evidence in the present case led by the prosecution is to be assessed. In order to prove the guilt of the accused, victim (PW-2) deposed at Exh.46. She has deposed that, she was running beauty parlour in Gadhinglaj on Azad road. Shridhar (A-1) was in Jail for 5 years. Prior to that, she was knowing him. After the release, he returned to Gadhinglaj. In March, 2024 he visited her house at Nesari. She was not present in the house. She resides there with her husband and two children. Shridhar (A-1) has sought her mobile phone number from her son. Thereafter, he started repeatedly contacting her. Therefore, she reported the matter to the Nesari Police Station.

8. On 6th May, 2024 Shridhar (A-1) came on a motorcycle at Gadhinglaj near old Fish Market. He was stalking her. He snatched the key

of Scooty. He tried to pull her and outraged her modesty. He also assaulted her when she protested him. At that time Shridhar (A-1) boldly expressed his feeling to keep physical relationship with her and therefore, she lodged FIR (Exh.47) against him with Gadhinglaj Police Station, vide its C.R. No. 293/2024 for the offence punishable under Sections 341, 354-A, 354-D, 506 of the IPC.

9. After his arrest in the crime No. 293/2024 Shridhar (A-1) was released on bail and on 05/06/2024. He visited her rented house situated at Vadarge. On that day, she was drying the chillies on the terrace. She locked her room and after wearing night gown she went on the terrace. At about 1.30 to 2.00 p.m. Shridhar (A-1) came on the terrace by a staircase, which is installed outside wall of the house. He was accompanied by Rahul (A-2) on a motorcycle. Rahul (A-2) was waiting for Shridhar (A-1) on the ground floor of the building.

10. Shridhar (A-1) snatched her mobile phone. He was arguing with her for half an hour. He offered her to reside with him. She denied the same. She frightened and rushed on the ground floor. Shridhar (A-1) followed her. He did not allow her to go in the room. He manhandled her.

11. Meanwhile, rain started. She again rushed on the terrace to collect chillies. She collected the chillies in a gunny bag and kept in a storeroom. She again brought one another gunny bag and collected the chillies in it and went to keep the same in the storeroom.

12. The accused followed her. He latched the door of the storeroom from inside. He caught hold by her neck and pushed on the gunny bag. She started raising cry for help. He kept his hand on her mouth and threatened to assault by a spade which was lying by the side in the storeroom. He kept his left hand on her chest, removed her pant with

his right hand and also removed her knicker. He raped her near about 2 minutes and dropped semen on the gunny bag.

13. At that time, he threatened her that, as she is repeatedly visiting the Police Station on the various allegations, he will show what is the rape and thereafter he left the place by threatening her with the dire consequences to kill her son.

14. She controlled herself and snapped a photograph of both the accused from the terrace. She was in pain, therefore, she rested there for a while on the terrace. She saw Rahul (A-2) was riding the motorcycle and Shridhar (A-1) pillion rider on the motorcycle. Thereafter, she phoned to her friend Mahammad Iliyas (PW-5) and narrated the incident and requested to take her to the Police Station. He rushed there immediately, with his help she went to lodge the FIR with the Gadhinglaj Police Station. As server was down, therefore, her FIR (Exh.48) was taken in the late night.

15. During the course of investigation. Her medical examination was conducted. Spot panchanama was prepared. She herself has shown the spot of incident to the police. Police have snapped photographs (Article 'A' collectively) of the spot of incident. She identified those photographs, spade (Article PW-2/MO-1), her knicker (PW-2/MO-2), Palazzo pant (PW-2/MO-3), T Shirt (Article PW-2/MO-4), Bra (Article PW-2/MO-5). She also proved her statement (Exh.50) under Section 164 of the Code of Criminal Procedure, 1973 ("Cr.P.C." for short) dated 07/06/2024. She also proved three NC reports vide Exhs.51, 52 and 53, filed by her against Shridhar (A-1).

16. Janaba (PW-4), the landlord, deposed at Exh.65 and confirmed the fact that, the victim was residing on first floor of the building owned by

him. However, he disclosed that, on the day of incident he was out of house and returned to 9.30 p.m. The police visited his house on 06/06/2024 at about 1.00 p.m.

17. Mahammad Iliyas (PW-5) deposed at Exh.66. He has corroborated the version of victim (PW-2) stating that, on 05/06/2024 the victim requested him on phone call at about 3.30 p.m. and therefore, he visited her rented house and helped her to visit the Gadhinglaj Police Station.

18. Dr. Poonam (PW-6) deposed at Exh.68. She is Medical Officer and submitted that, on 05/06/2024 the victim visited the Sub District Hospital with a police letter (Exh.69). Victim was referred to her at about 10.30 p.m. on 05/06/2024. She examined the victim. She came with a history of sexual and physical assault on 05/06/2024 at about 3.00 p.m. She found old healed tear on Hymen and fourchette old healed tear. She collected swabs from under pant, scalp hair, head hair combing, nails scrapping, nail clippings, blood for grouping, blood for DNA analysis, cutting of pubic hair, two vulval swabs, two vaginal swabs, vaginal smear, vaginal washing and urethral swab. She sent these samples in sealed condition to the police. Accordingly, she issued medical report (Exh.70).

19. Jotiba (PW-1) the panch witness deposed at Exh.41. He did not support the prosecution and turned hostile. But, he has substantially deposed about the situation on the terrace and found chillies were scattered on the terrace. Police have snapped the photographs. There was a terrace attached with a storeroom.

20. Prashant (PW-7) the Investigating Officer deposed at Exh.76 that, the investigation of the present crime was handed over to him on 05/06/2024 as per order (Exh.77). He visited the spot of incident on

06/06/2024, which was situated at Vidyanagar, Vadarge road. The building was owned by Janaba (PW-4). Thus, he carried out spot panchanama (Exh.48) and seized spade. Snapped the photographs (Article – 'A' collectively). Obtained the 65-B certificate (Exh.79) from Police Head Constable, Rajkumar Patil.

21. He sent the victim for medical examination to Sub District Hospital, Gadhinglaj. Her medical examination conducted. The medical report (Exh.70) was collected. He arrested Rahul (A-2) on 05/06/2024 itself as per arrest panchanama (Exh.81). He caused to be recorded statement of victim by Judicial Magistrate, First Class, Gadhinglaj under Section 164 of the Cr.PC. Rahul (A-2) produced the motorcycle used in the commission of the crime under the recovery panchanama (Exh.63). He also seized the clothes of the victim wore by her at the time of alleged incident. Necessary seizure panchanama (Exh.83) was prepared. Subsequently, the seized muddemal and samples were sent to C.A. as per letter (Exh.86).

B) Defence of the Accused :-

22. On the background of this prosecution evidence the statement of accused under Section 313 of Cr.PC. were recorded. The incriminating part of the evidence is confronted them. They have stated it is false. The accused has produced on record the complaint filed by him against the Police Officers of Gadhinglaj Police Station dated 17/05/2024.

C) Arguments :-

23. During the course of arguments, the Ld. APP, Shri. S.A. Teli pointed out that, the victim has sufficiently brought on record the incident, which is supported by other witnesses. He pointed out the previous police record of the Shridhar (A-1) and therefore, he submitted

that, Shridhar (A-1) was continuously stalking the victim (PW2) after releasing from the Jail and on the day of incident he visited the house of victim (PW2) along with Rahul (A-2) and committed the rape on her. He also pointed out that, there is immediate FIR (Exh.48) on the part of the victim (PW2). Investigation is also promptly conducted. Shridhar (A-1), who was absconded and not available for investigation. This is also one of the incriminating evidence against the accused. He also pointed out the role played by Rahul (A-2) in this case. Therefore, he submitted that, the prosecution has proved the guilt of the accused beyond reasonable doubt and therefore, prayed to convict the accused of the charge.

24. On the other hand, the Ld. Defence Counsel, Shri. A.T. Matala submitted that, the credibility of the victim is totally impeached in her cross-examination. He also pointed the evidence of medical witness, who has fairly submitted that, there are no violence mark or the symptoms of sexual intercourse with victim. He also pointed out the C.A. reports (Exhs.71 to 73), are resulted in the negative and therefore, submitted that, as the police have grudge against Shridhar (A-1) as he was released by this Court in a MCOCA case and this Court has made adverse remarks against the investigating machinery, which is published in daily newspaper "Lokmat" on the next day of the Judgment and therefore, the police have taken Shridhar (A-1) into their custody on the basis of false allegation made by the victim outraging her modesty.

25. He further pointed out that, Shridhar (A-1) was also taken to S.P. Office, Kolhapur and pressurized to withdraw the complaint which Shridhar (A-1) has made against the Police Officers of the Gadhnglaj Police Station and thus, the victim was used as a tool in the present case against Shridhar (A-1). He submitted that, totally false case is prepared by the police with the help of victim against the accused.

26. He also pointed out that the victim and the accused No.1 were close friends of each other. He shown the photograph of both of them snapped during the course of production of Shridhar (A-1) in the Court when he was under trial prisoner in the MCOCA case. He submitted that, the accused No.1 and the victim had performed their marriage in a temple. He produced on record the copy of the said marriage. He submitted that, no such incident of rape had occurred and therefore, prayed to acquit the accused of the charge. He also filed notes of arguments at Exh.99.

D) APPRECIATION OF EVIDENCE :-

(i) Credibility of Testimony of the Victim (PW-2) -

27. It is well settled that, in case of rape, conviction can be made on the sole testimony of the prosecutrix as her evidence is in nature of an injured witness. But when a person is to be convicted on the testimony of a single witness utmost care to be taken in examining testimony of such a witness. The sole testimony must inspire confidence in the mind. Her deposition is to be found trustworthy, unblemished, credible. There is no difficulty to act on the testimony of the victim of sexual assault. This principle of appreciation of evidence of the victim of rape is evolved on the rational reasoning that, no self-respecting woman would come forward in a Court just to make a humiliating statement against her honour such as is involving in the commission of rape on her. Therefore, the sole testimony of the prosecutrix is vital unless there are compelling reasons which necessitate looking for corroboration of her statement.

28. In *Krishanlal Vs. State of Haryana reported in (1980) 3 SCC 159* Hon'ble Supreme Court observed that,

"We must bare in mind human psychology and behavioural probability in assessing the testimonial potency of the victim's version. When would a

girl foist a rape charge on a stranger unless a remarkable set of facts or clearest motives were made out? The inherent bashfulness, innocent naivete and the feminine tendency to conceal the outrage of masculine sexual aggression are factors which are relevant to improbabilise the hypothesis of false implication.

To forsake these vital considerations and go-by obsolescent demands for substantial corroboration is to sacrifice commonsense in favour of an artificial concoction called 'judicial' probability. Indeed, the Court loses its credibility if it rebels against realism. The law Court is not an unnatural world.

29. Relying on this judgment the Hon'ble Supreme Court again in ***Bharwada Bhoginbhai Hirjibhai Vs. State of Gujarat:-(1983) 3 SCC 217*** observed that,

"In the Indian setting, refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disbelief or suspicion? To do so is to justify the charge of male chauvinism in a male dominated society. We must analyze the argument in support of the need for corroboration and subject it to relentless and remorseless cross-examination. And we must do so with a logical, and not an opiated, eye in the light of probabilities with our feet firmly planted on the soil of India and with our eyes focussed on the Indian horizon. We must not be swept off the feet by the approach made in the Western World which has its own social milieu, its own social mores, its own permissive values, and its own code of life. Corroboration may be considered essential to establish a sexual offence in the backdrop of the social ecology of the Western World. It is wholly unnecessary to import the said concept on a turn-key basis and to translate it on the Indian soil regardless of the altogether different atmosphere, attitudes, mores, responses of the Indian Society and its profile. The identities of the two worlds are different. The solution of problems cannot therefore be identical."

"On principle the evidence of a victim of sexual assault stands on par with evidence of an injured witness. Just as a witness who has sustained an injury (which is not shown or believed to be self inflicted) is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of a sex-offence is entitled to great weight, absence of corroboration notwithstanding. And while corroboration in the form of eye witness account of an independent witness may often be

forthcoming in physical assault cases, such evidence cannot be expected in sex offences, having regard to the very nature of the offence. It would therefore be adding insult to injury to insist on corroboration drawing inspiration from the rules devised by the courts in the Western World. Obeisance to which has perhaps become a habit presumably on account of the colonial hangover. We are therefore of the opinion that if the evidence of the victim does not suffer from any basic infirmity, and the probabilities-factors does not render it unworthy of credence, as a general rule, there is no reason to insist on corroboration except from the medical evidence, where, having regard to the circumstances of the case, medical evidence can be expected to be forthcoming, subject to the following qualification:Corroboration may be insisted upon when a woman having attained majority is found in a compromising position and there is a likelihood of her having levelled such an accusation on account of the instinct of self-preservation. Or when the 'probabilities-factor' is found to be out of tune”.

30. Further the Hon’ble Supreme Court in ***State of Maharashtra Vs. Chandraprakash Kevalchand Jain , AIR 1990 S.C. 658*** held that,

“A prosecutrix of a sex offence cannot be put on par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated immaterial particulars. She is undoubtedly a competent witness under Section 118 of the Evidence Act and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured witness and no more.

“We think it proper, having regard to the increase in the number of sex-violation cases in the recent past, particularly cases of molestation and rape in custody, to remove the notion, if it persists, that the testimony of a woman who is a victim of sexual violence must ordinarily be corroborated in material particulars except in the rarest of rare cases. To insist on corroboration except in the rarest of rare cases is to equate a woman who is a victim of the lust of another with an accomplice to a crime and thereby insult womanhood. It would be adding insult to injury to tell a woman that her story of woe will not be believed unless it is corroborated in material particulars as in the case of an accomplice to a crime”.

31. Applying these principles of appreciation of evidence in rape cases the evidence in this case is to be assessed. In her evidence, victim (PW-2) has deposed that, she was on friendly relationship with Shridhar (A-1), however, as Shridhar (A-1) was in Jail for considerable period,

therefore, during this period she had no contact with him, but after release from Jail he reestablished his contacts with victim (PW-2) and started repeated phone calls and thereby harassed the victim (PW-2). She has lodged number of NCs against Shridhar (A-1) with the Nesari Police Station. On 06/05/2024 he has outraged her modesty in a Fish Market, Gadhinglaj and therefore, she lodged FIR (Exh.47) against him vide its C.R. No.293/2024 on 09/05/2024. It is also matter of record that, Shridhar (A-1) was arrested in connection with the said crime by the Gadhinglaj Police Station, however, released on bail by the Ld. Judicial Magistrate, First Class, Gadhinglaj.

32. It has also come in the evidence of prosecution that, on 05/06/2024 both the accused visited her rented house situated at Vadarge road Gadhinglaj. The accused Rahul (A-2) waited on the ground floor of the building and Shridhar (A-1) climbed the staircase of the building and went on the terrace where victim (PW-2) was cleaning and drying chillies. They had hot altercation near about more than half an hour and subsequently as per the version of victim (PW-2) Shridhar (A-1) has committed rape on her in the storeroom attached to the terrace by latching it from the inside.

33. The incident had occurred in day time in between 1.30 p.m. to 3.00 p.m. It is populated area. There are several houses surroundings to the house of the victim. It has come in her cross-examination that, the said building is two storeyed. It is owned by Janaba (PW-4). On ground floor there are 4 rooms. Similarly, on the first floor there are 4 rooms. On the ground floor Janaba (PW-4) resides with his family members. There is a staircase to the said building. On first floor her room is situated and adjacent to her room there is a room of one Jaydeep Ainapure, who resides with his family members. Both the rooms are sharing common

walls, therefore, any conversation held in the room of Shri. Ainapure can be heard in her room and vice versa.

34. It is usually practice that, the family members of Janaba (PW-4), particularly the women and the other women from nearby building use to sit by chatting in the afternoon everyday. There are agricultural fields surroundings the spot of incident. There is parapet of 3 feet in its height to the said building. Therefore, if someone is standing on the terrace, he is visible from the road. Thus, there is ample evidence on record that, the spot of incident is surrounded by residential houses and agricultural lands.

35. The building is comprising various tenements. The owner of the building including the other tenant are residing in the same building with their family members. Even in the afternoon the women use to sit chatting in the said building. Therefore, if any untoward incident occurred it is easily noticeable to the inmates in the building. When victim herself admitted in the cross-examination that, the accused was loudly interacting with her more than half an hour, he pushed her against the wall of the terrace situated towards the road, therefore, someone from the building would have certainly approached on the terrace to see the quarrel, but surprisingly no one came on the terrace, in spite of hot exchange of words took place between the victim (PW-2) and Shridhar (A-1).

36. Even after the incident of alleged rape she did not raise hue and cry for help. She had only snapped the photograph of both the accused. She did not narrate the incident to the women residing in the building. None of the inmates in the building was knowing about the incident until arrival of the police in the late night for carrying out spot panchanama (Exh.42). This silence on the part of the victim (PW-2) create doubt in the mind about the occurrence of the incident.

37. She has deposed that, Shridhar (A-1) caught hold by her neck and pushed on gunny bag, however, no injury is found on the person of victim (PW-2), as Dr. Poonam (PW-6) has specifically deposed that, the patient did not have any mark of violence.

38. The theory of prosecution create doubt in the mind, particularly when the victim had stated that, she had wore night gown at the time of the incident. But, clothes which were seized by the Investigating Officer are altogether different. They are Palazzo pant, red colour T shirt, etc. Therefore, on perusal of the clothes, which were sent for C.A., neither blood nor semen is detected. So also no HAH found on these clothes.

39. As per her FIR (Exh.48), the accused has committed rape by pushing her on a gunny bag. In a history narrated by her to Dr. Poonam (PW-6) she has specifically stated that, the victim (PW2) has come with a history of sexual and physical assault on 05/06/2024 at about 3.00 p.m. The medico-legal examination report (Exh.70) discloses that, the patient has narrated the Penovaginal intercourse. But, surprisingly the victim (PW2) has improved her version and deposed that, after the intercourse, Shridhar (A-1) ejaculated semen on the gunny bag. But, as stated above in a medico-legal report (Exh.70), it is specifically mentioned that, the ejaculation had taken place in vagina. There is reason to improve the victim (PW2) about this fact, because the C.A. reports (Exhs.71 to 73) are received to the prosecution before her examination-in-chief, particularly on 13th May, 2025 and her deposition had taken place on 30/07/2025 and thus, clearly the C.R. reports (Exhs.71 to 73) were with the prosecution and as per the C.A. reports (Exhs.71 to 73) neither blood nor semen detected on the clothes of the victim (PW-2). So also neither semen nor spermatozoa is detected on vulval swab, vaginal swab, vaginal smear,

vaginal washing and urethral swab. The report of blood/semen received inconclusive. The blood group of Shridhar (A-1) is received 'O'. Thus, victim (PW-2) has cunningly improved her story to give go-by to the C.A. reports (Exhs.71 to 73) and therefore, the narration in her deposition crates doubt in the mind.

(ii) Previous Relationship of Victim (PW-2) with Shridhar (A-1)

40. The Ld. Counsel, Shri. A.T. Matale has successfully brought on record the conduct of the victim (PW-2) when in her cross-examination she admitted that Shridhar (A-1) was arrested in connection with MCOCA case and he fled away from the judicial custody during the course of the trial and thereafter two Ladies Police Constables were deputed at her house. After arrest of Shridhar (A-1) the Investigating Officer Shri. Prakash Gaikwad of Gadhinglaj Police Station visited her house along with Shridhar (A-1) and conducted search of her house. This shows previous deep relationship of victim (PW-2) with Shridhar (A-1).

(iii) Medical Evidence -

41. Thus, on the background of these discrepancies in the evidence of prosecution witnesses so far as ocular evidence is concerned, it would be appropriate to examine the medical evidence as to whether it supports to the version of victim (PW2).

42. The Hon'ble Supreme Court in *Radhu Vs. State of Madhya Pradesh, 2008(2) SCC (Cri) 207*, held that,

"5. It is now well settled that a finding of guilt in a case of rape, can be based on the uncorroborated evidence of the prosecutrix. The very nature of offence makes it difficult to get direct corroborating evidence. The evidence of the prosecutrix should not be rejected on the basis of minor discrepancies and contradictions. If the victim of rape states on oath that she was forcibly subjected to sexual intercourse, her statement will normally be accepted, even if it is uncorroborated, unless the

material on record requires drawing of an inference that there was consent or that the entire incident was improbable or imaginary. Similarly, the opinion of a doctor that there was no evidence of any sexual intercourse or rape, may not be sufficient to disbelieve the accusation of rape by the victim. Bruises, abrasions and scratches on the victim especially on the forearms, wrists, face, breast, thighs and back are indicative of struggle and will support the allegation of sexual assault. The courts should, at the same time, bear in mind that false charges of rape are not uncommon. There have also been rare instances where a parent has persuaded a gullible or obedient daughter to make a false charge of a rape either to take revenge or extort money or to get rid of financial liability. Whether there was rape or not would depend ultimately on the facts and circumstances of each case.”

43. Applying the said principle to the facts of the present case, it would be appropriate to appreciate the medical evidence in the present case. Dr. Poonam (PW-6) has specifically deposed in her examination-in-chief itself that, she did not find any external injuries on the person of the victim. On genital examination, all genital parts were intact and normal. Hymen old healed tear was there and fourchette old healed tear was there. Anus, rectum, oral cavity was normal and intact.

44. She has further deposed that, from the above medical evidence, she formed her medical opinion that the patient did not have any mark of violence. On her genital examination, urethral meatus, labia majora, labia minora were normal and intact and Hymen fourchette old healed tear was there. External urethral meatus was normal and intact.

45. She also admitted in her cross-examination that, the history of sexual assault and physical assault was narrated to her by victim herself. The victim had told her that, she has been threatened by an axe, but in the investigation it is the spade, which was seized by the police and as per narration of victim (PW-2) she was threatened by Shridhar (A-1) by a spade lying in the storeroom.

46. She further admitted that, as per Clause 16 of the report, vital changes are normal including pulse and blood pressure. As per history

narrated by the victim the ejaculation released in vagina. As per systemic examination the central nervous system was conscious oriented. The cardio vascular system was normal. So also her respiratory system was also normal. Breasts of victim were also normal and intact. She had wore the same clothes, which were used at the time of sexual and physical assault.

47. When C.A. reports (Exhs.71 to 73) were confronted to this Medical Officer, she has admitted that, as there are no violence marks on the body of the victim, therefore, history of physical assault narrated by the victim appears to be improbable. The victim was 39 years old at the time of her medical examination. On examination of hymen there was old healed tear, however, the said old healed tear on hymen has no concerned with the alleged sexual assault on the victim. She did not find any fresh injury of external parts of genital. From gynecological examination of victim coupled with C.A. reports (Exhs.71 to 73) there is a remote possibility of sexual intercourse.

48. On similar facts, the Hon'ble Supreme Court in ***Yerumalla Latchaiah Vs. State of A.P., 2006(9) SCC 713***, held that,

“Immediately after the occurrence, she was examined by Dr. K. Sucheritha (P.W.7) who has stated in her evidence that no injury was found on any part of body of the victim, much less on private part. Hymen was found intact and the doctor has specifically stated that there was no sign of rape at all. In the medical report, it has been stated that vaginal smears collected and examined under the microscope but no sperm detected.

3. *The evidence of the prosecutrix is belied by the medical evidence. In our view, in the facts and circumstances of the present case, the High Court was not justified in upholding the conviction. Accordingly, the appeal is allowed, conviction and sentence of the appellant is set aside and he is acquitted of the charge.”*

49. Thus, this is last nail in the coffin of the prosecution story which ruled out the possibility of sexual intercourse at about 3.00 p.m. on

05/06/2024 with the victim (PW-2). Thus, falsity in the prosecution case has surfaced during the course of the trial. Ultimately, both the Investigating Officers Prashant (PW-7) and Sagar (PW-8) admitted in their cross-examinations that, they have considered the medical report at the time of filing of charge-sheet and as per the said report they did not find any marks of injury on the body of victim (PW-2). So also no fresh marks of violence/injury was noticed on the genital parts of the victim and still they did not obtain any clarification from the Medical Officer. Sexual intercourse or rape on the victim (PW-2) is not specifically mentioned in the medical report (Exh.70).

(iv) Discrepancy in the Spot Panchanama (Exh.42) -

50. As per her version, she had shown the spot of incident to the police at the time of spot panchanama (Exh.42), but Jotiba (PW-1) did not support the prosecution on this point. He flatly refused to the suggestion that the spot of incident was shown to him by victim. Even on perusal of the spot panchanama (Exh.42) it reflects that it is carried out on 06/06/2024 in between 1.10 a.m. to 1.55 a.m., but as per version of Dr. Poonam (PW-6) the victim was with her on 05/06/2024 at about 11.15 p.m. to 2.00 a.m. on 06/06/2024.

51. Thus, in her cross-examination she specifically admitted that, she has examined the victim at about 11.15 p.m. on 05/05/2024 and completed the examination on 06/06/2024 at about 2.00 p.m. Victim (PW-2) also admitted in her cross-examination that, at the instance of police she attended the Sub District Hospital, Gadhinglaj at about 11.00 p.m. and was there till 1.30 a.m. Therefore, serious doubt arises as to whether the victim (PW-2) was present at the time of spot panchanama (Exh.42) on the terrace to show the same to the panch witnesses. Thus, it reflects falsity in the police investigation.

(v) Seizure of Motorcycle -

52. So far as seizure of motorcycle from Rahul (A-2) is concerned, it is shown that at the instance of Rahul (A-2) the motorcycle was seized by the police and necessary seizure panchanama was prepared. However, Vinayak (PW-3) the panch witness did not support the prosecution on the point of seizure of motorcycle. He turned hostile.

(vi) Vital Admissions by Investigating Officers -

53. Thus, on the background of this evidence it would be appropriate to have a glance on the evidence of Investigation Officer, Prashant (PW-7), who has admitted that Harshvardhan B.J. was the I.P.S. Officer posted with Gadhinglaj Police Station in between 15/04/2024 to 01/06/2024 on a probation. Victim (PW-2) lodged NCs against Shridhar (A-1) in between 15/04/2024 to 01/06/2024 with Gadhinglaj Police Station.

54. He further admitted that, at the time of spot panchanama (Exh.42) he did not notice any articles were scattered on the terrace. He did not notice any marks of scuffle. As per prosecution case, the spot panchanama (Exh.42) was prepared on 06/06/2024 in the early hours in between 1.10 a.m. to 1.55 a.m. But, the Investigation Officer, Prashant (PW-7) issued letter to the Irrigation Department, Gadhinglaj on 06/06/2024. Obviously the said letter might have received by Irrigation Department during the office hours on 06/06/2024 but prior to that the spot panchanama (Exh.42) was already prepared with the help of panch witnesses.

55. The involvement of Mahammad Iliyas (PW-5) is also doubtful, particularly when as per prosecution he has helped the victim (PW-2) to bring her to the Police Station after the alleged incident of rape. But, this

witness further helps the police to bring the seized motorcycle from Inchanal to Gadhinglaj allegedly seized under the seizure panchanama (Exh.63) from Rahul (A-2). Therefore, this witness is showing unnecessary interest in the police investigation. Though correspondence of CDR and SDR of Shridhar (A-1) was made, but the mobile number and SIM card number of victim (PW-2) was not taken for collecting CDR and SDR.

E) Conclusion :-

56. Thus, from the above appreciation of prosecution evidence it appears that the prosecution has failed to prove the allegation of rape against Shridhar (A-1) and assisting him in the said crime against Rahul (A-2). The entire prosecution theory collapsed during the course of the cross-examination conducted by Ld. Counsel, Shri. A.T. Matale. Thus, it would be unsafe to convict the accused of the charge on basis of sole testimony of Victim (PW2) on the background of improvisation made by her in her testimony during the course of trial. The silence of the neighbourhood in spite of this grave offence that too, in a day time in a residential area is surprisingly doubtful and remained unsolved mystery at the end of the trial. Before parting with this judgment it would be appropriate to mention the legal proposition laid down by the Hon'ble Supreme Court in ***Narendra Kumar Vs. State (NCT of Delhi) 2012 (7) SCC 171***, wherein it is held that,

“ Where evidence of the prosecutrix is found suffering from serious infirmities and inconsistencies with other material, prosecutrix making deliberate improvements on material point with a view to rule out consent on her part and there being no injury on her person even though her version may be otherwise, no reliance can be placed upon her evidence”.

Therefore, the probable defence raised by the accused needs to be accepted, as there is no case is made out against the accused. Thus, I answer these points in the negative and proceed to pass following order -

ORDER

- 1) Accused No.1 Shridhar Arjun Shingate and No.2 Rahul Netaji Musale are acquitted of the charge for the offence punishable under Sections 376, 323 and 506 read with Section 34 of the Indian Penal Code, 1860, as per Section 235 of the Code of Criminal Procedure, 1973.
- 2) The accused No.1 Shridhar Arjun Shingate is in jail, he shall be released forthwith, if not required in any other crime.
- 2) The bail bonds of the accused No.2 is cancelled.
- 3) Muddemal Property viz. -
 - (a) The seized motorcycle is already with its respective owner, it will be remained with the owner, if appeal is not preferred.
 - (b) The seized spade be disposed of as per rule after one year, if appeal is not preferred.
 - (c) Remaining muddemal properties being worthless be destroyed after one year, if appeal is not preferred.
 - (d) Pen drive seized during the course of investigation shall be returned to the Police Station after one year by formatting it, if appeal is not preferred.
- 4) The accused to comply provision of Section 437-A of the Code of Criminal Procedure, 1973.

(Dictated and pronounced in open Court.)

Date: 17/03/2026.

(M. A. Shinde)
Additional Sessions Judge,
Gadhinglaj.