

MHKO080007662023 	Received on	26/10/2023
	Registered on	26/10/2023
	Decided on	05/05/2026
	Duration	Ys. Ms. Ds. 02 06 09

Part 'A'

<p><u>IN THE COURT OF SPECIAL JUDGE, AT GADHINGLAJ,</u> <u>DISTRICT-KOLHAPUR</u> [Presided over by M. A. Shinde]</p> <p><u>J U D G M E N T</u> (Delivered on 05/05/2026)</p> <p><u>Special Case No. 27/2023</u> <u>Exh.No. 47/A.</u></p>	
<p>Details of FIR C.R.No. 358/2023 Chandgad Police Station, Dist. Kolhapur.</p>	
PROSECUTION	<p>The State of Maharashtra Through Police Station Officer, Police Station, Chandgad Dist. - Kolhapur.</p>
REPRESENTED BY	<p>Shri. S.A.Teli, Additional Public Prosecutor for the State.</p>
ACCUSED	<p>Ashok Gundu Patil, Age 32 Years, Occu, - Mason work, R/o. Mandedurga, Post-Sundi, Tal. Chandgad, Dist. Kolhapur.</p>
REPRESENTED BY	<p>- Shri. N.N. Gavade, Advocate for the accused.</p>

Part 'B'

Date of offence	16/09/2023
Date of FIR	17/09/2023
Date of Charge-sheet	20/10/2023
Date of Framing of Charges	26/11/2024
Date of commencement of evidence	05/08/2025
Date on which judgment is reserved	28/04/2026
Date of the Judgment	05/05/2026
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.P.C.
1)	Ashok Gundu Patil	17/09/2023	In Jail	U/s. 354, 354-A(1), 452 of IPC along with Sections 7, 8 & 12 of POCSO Act, 2012 and Sections 3(1)(w) (i) (ii) and 3(2)(va) of Atrocities Act, 2015.	Acquitted.	--	--

Part 'C'

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution :-

RANK	NAME	NATURE OF EVIDENCE
PW-1	Victim	Victim.
PW-2	Namdev	Uncle of victim.
PW-3	Shridhar	Prosecution witness.
PW-4	Rajendra	Panch witness.
PW-5	Rajiv	Investigating Officer.

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)	11	FIR.

2)	12	Caste certificate of victim.
3)	13	Statement of victim u/s.164 of Cr.P.C.
4)	15	Statement of Namdev Kamble u/s.164 of Cr.P.C.
5)	19	Birth certificate of victim.
6)	21	Spot panchanama.
7)	22	Seizure panchnama of memory card dated 17/09/2023.
8)	23	Seizure panchnama of clothes of the victim dated 17/09/2023.
9)	24	Arrest panchnama dated 17/09/2023.
10)	34	Order dated 17/09/2023 for investigation of crime.
11)	35	Letter received from MSEDCL.
12)	36	Letter received from Grampanchayat, Mandedurga.
13)	37	Tax Assessment Sheet.
14)	38 & 39	School Leaving Certificates.
9)	40	Residence certificate of accused.
10)	41	Residence certificate of victim.
11)	42	Extract of House Property No.440.
12)	43	Extract of House Property No.365.
13)	44	A copy of C.R. No.108/2022 registered with Chandgad Police Station.

B. Defence:-

SR.NO.	Exhibit Number	Description
-	-	-

C. Court Exhibits:-

SR.NO.	Exhibit Number	Description
1)	3	Charge
2)	4	Plea of accused
3)	46	Statement u/s.313 of Cr.PC.

D. Material Objects:-

SR.NO.	Exhibit Number	Description
1	Article- " A'	Medico-legal Examination Report.

J U D G M E N T

(Delivered on 05/05/2026)

1. The accused is charged for the offence punishable under Sections 354, 354-A(1), 452 of the Indian Penal Code, 1860 ("IPC" for short) along with Sections 7, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act" for short) and Sections 3(1)(w)(i) (ii) and 3(2)(va) read with Section 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015 ("Atrocities Act" for short).

2. It is the case of the prosecution that, on 16/09/2023 the first

informant/victim lodged FIR stating that, on 16/09/2023 at about 7 p.m., when she was charging telephone in the house of her uncle, the accused came in the hall, he embraced her from backside, kissed her and started pressing her breast. After seeing him she cried for help. During the scuffle her top was torn on left shoulder. After hearing her cry for help her relatives who were on the first floor rushed in the hall on the ground floor. After seeing them the accused fled away from the spot. The victim claimed to be minor and belonging to Scheduled Caste Hindu Mahar Community and therefore, the police have registered the crime No.358/2023 against the accused for the offence punishable under Sections 354, 354-A(1), 452 of the IPC along with Sections 7, 8 and 12 of POCSO Act and Sections 3(1)(w)(i)(ii) and 3(2)(va) read with Section 6 of the Atrocities Act.

3. During the course of investigation accused came to be arrested, statements of witnesses were recorded, panchanamas were prepared, caste certificate of victim as well as accused were collected. The document relating to the house were also collected. School leaving certificate of victim were collected and after completion of investigation the police filed charge-sheet in the Court.

4 Accused appeared in the case and charge is framed against him at Exh.3. The 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.

5. Sufficient opportunity is given to the prosecution to lead evidence. Heard both parties at length. Following points arise for my determination and I have recorded my findings thereon with reasons as under.

<u>SR. NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Does the prosecution prove that, on 16/09/2023 at about 5.30 p.m. in the hall of Namdev Mahadev Kamble in village Mandedurga, Post-Sundi, Tal. Chandgad, Dist. Kolhapur, the accused used criminal force against informant /victim with the intent to outrage her modesty, and thereby committed an offence punishable U/s.354 of the IPC?	In the negative.
2.	Does the prosecution prove that, on the aforesaid date, time and place the accused assaulted and used criminal force used physical contact with informant/victim with intention to outrage her modesty by sexual harassment and thereby committed an offence punishable under Section 354-A(1) of the IPC ?	In the negative.
3.	Does the prosecution prove that, on the aforesaid day, date, time and place, the accused committed house trespass by entering into a house belonging to the informant /victim, used as a human dwelling and thereby committed an offence punishable U/s.452 of the IPC?	In the negative.
4.	Does the prosecution prove that, on the aforesaid date, time and place, the accused committed sexual assault on minor prosecutrix kissing the cheek and pressing the breast of minor prosecutrix and thereby committed an offence punishable under Section 7 of the POCSO Act?	In the negative.

5	Does the prosecution prove that, on the aforesaid date, time and place, the accused committed sexual assault on minor prosecutrix and thereby committed an offence punishable under Section 8 of the POCSO Act?	In the negative.
6.	Does the prosecution prove that, on the aforesaid day, date, time and place, the accused committed sexual harassment of minor prosecutrix of 17 years 9 months 8 days of age, and thereby committed an offence punishable under section 12 of the POCSO Act?	In the negative.
7.	Does the prosecution prove that, on the aforesaid day, date, time and place, the accused being not a member of Scheduled Castes and Scheduled Tribes, intentionally insulted or intimidated with intend to humiliate the informant/victim, knowing that she is member of Scheduled Caste i.e. "Hindu- Mahar" and also abused her in vernacular language and thereby committed an offence punishable under section 3(1)(w)(i) (ii), 3(2)(va) read with Section 6 of the Atrocities Act?	In the negative.
8.	What order?	The accused is acquitted.

REASONS

As to Point Nos.1 to 7 :-

6. In order to prove age of victim, the prosecution has produced on record her birth certificate at Exh.19. Shridhar (PW-3) the Village

Development Officer, Grampanchayat Mangaon, deposed at Exh.18 and proved the birth certificate (Exh.19). As per the said birth certificate, her date of birth is 08/12/2005. Nothing is brought on record to disbelieve testimony of this witness, therefore, I hold that prosecution has proved that at the relevant time of the incident the victim was minor, as her date of birth is 08/12/2005 and the alleged incident took place on 16/09/2023.

7. So far as caste of the victim is concerned, the caste certificate (Exh.12) is produced on record. As per the said caste certificate, the victim appears to be belonging to Hindu Mahar community, which is scheduled caste community. Thus, from the caste certificate it appears that the victim is belonging to scheduled caste community.

8. So far as the alleged incident of sexual assault and harassment is concerned, victim has deposed at Exh.10 and narrated the incident stating that, on 16/09/2023 at about 7.00 p.m. to 7.30 p.m. she was watching television in the house of her uncle on the ground floor. Her uncle and other relatives were on the first floor. Her aunt was cooking in the kitchen, therefore, she was alone in the hall. The accused came from behind and embraced her. He kissed her and pressed her breast while she was rescuing herself from the clutches of the accused. Her top was torn on left shoulder. She raised cry for help. Her relatives rushed in the hall. After seeing them the accused ran away from the hall. The relatives searched for him at his resident, but accused could not be located, therefore, she reported the matter with the police and lodged the FIR vide Exh.11.

9. In her cross-examination it is brought on record that, she was in Second year of B.SC. She did not recollect which television serial was

looking. She also does not recollect the direction of the television.

10. Namdev (PW-2) her uncle tried to support the victim on the material aspect stating that, he was present on the second floor of the house at the relevant time of the incident. Victim was watching television in the hall. After hearing her cry for help he and other relatives came in the hall, but accused ran away from there, therefore, victim reported the matter to the police.

11. So far as testimony of Rajendra (PW-4) is concerned, he his panch witness to the panchanamas at Exhs.21, 22, 23 and 24. The Investigating Officer Raju (PW-5) deposed at Exh.33. He carried out investigation and filed charge-sheet. After perusal of entire evidence, it appears that there is discrepancy in the evidence of victim (PW-1) and Namdev (PW-2), as victim (PW-1) deposing that after the incident she raised cry for help, her uncle Namdev (PW-2) and other relatives rushed in the hall and accused ran away from the spot. They chased him up to his house, but he could not be located, therefore, they approached to the Police Station. However, Namdev (PW-2) is not stating anything about the chasing of the accused after the incident up to his house. Thus, the incident narrated by the victim does not inspire confidence in the mind. There is no prior untoward incident occurred at the hands of the accused with the victim. She is narrating single incident dated 16/09/2023, therefore, to my view the prosecution case suffers from the discrepancy and thus I hold that the prosecution failed to prove the guilt of the accused beyond reasonable doubt. Benefit of doubt needs to be extended to the accused. Hence, all above points are answered in the negative and proceed to pass following order –

ORDER

- 1) Accused Ashok Gundu Patil is hereby acquitted of the charge for the offence punishable under Sections 354, 354-A(1), 452 of the Indian Penal Code, 1860 along with Sections 7, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(1)(w)(i)(ii) and 3(2)(va) read with Section 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015.
- 2) His bail bonds are canceled.
- 3) Muddemal property i.e. torn top being worthless be destroyed after one year from today, 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: 05/05/2026.

(M. A. Shinde)
Special Judge-1, Gadhinglaj.