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Duration : Y. M. D  
07 03 20

MHNS230021812018



**Part A**

**[Para 44 (i) of Chapter VI of Criminal Manual]**

Exh. 91/B	
<b><u>IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, IGATPURI, TAL. IGATPURI, DIST- NASHIK.</u></b> <b>( Presided over by Mohini Nanaware )</b>	
Details of FIR/ Crime and Police Station	Crime No.17/2017 (Ghoti Police Station, Tal. Igatpuri, Dist. Nashik)
Case No.	Regular Criminal Case no. 280 of 2018 CNR- MHNS230021812018
Complainant/ Prosecution	State of Maharashtra through P. I. Wadiwarhe Police Station, Tal. Igatpuri, Dist. Nashik.
Represented by	Mr. Rike, (Learned Assistant Public Prosecutor)

Accused	<p><b>1. Sanjay Hari Jadhav</b> Age- 50Yrs., Occu- Agriculture</p> <p><b>2. Yogesh Arun Jadhav</b> Age- 32Yrs., Occu- Agriculture</p> <p><b>3. Kailas Prabhakar Jagtap</b> Age- 37Yrs., Occu- Agriculture Accu.Nos. 1 to 3 R/o. Ghoti, Tal-Igatpuri, Dist- Nashik</p> <p><b>4. Santosh Ramchandra Rao</b> Age- 35Yrs., Occu- Agriculture R/o. Mukne, Tal-Igatpuri, Dist- Nashik</p> <p><b>5. Lata Sanjay Jadhav</b> Age- 30Yrs., Occu- Agriculture Accu.Nos. 1 to 3 R/o. Ghoti, Tal-Igatpuri, Dist- Nashik</p>
Represented by	Accused nos. 1 and 5 Mr. G.P. Chavan, Accused nos. 2 to 4 Mr. D.S. Khatale

**Part B****[ Para 44(ii) of Chapter VI of Criminal Manual]**

Date of offence	01-01-2017
Date of FIR	29-01-2017
Date of Charge sheet /complaint	04-12-2018
Date of commencement of evidence	14-10-2022
Date on which judgment is reserved	10-03-2026
Date of the Judgment	23-03-2026
Date of the Sentencing Order, if any	-

**Accused details:**

Rank of the accused	Name of accused	Date of Arrest	Date of Release on bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention undergone during Trial for purpose of Section 428, Cr.PC.
1.	Sanjay Hari Jadhav,	Anticipatory Bail of Accu.no. 1 and 5 dtd. 14.02.2017	Accu.nos. 2 to 4 dtd. 05.02.2017 and Accu nos. 1 and 5 dtd. 13.03.2019	Sec. 143, 145, 146, 147, 323, 354 and 504 read with 149 of IPC.	Accused are acquitted.	-	-
2.	Yogesh Arun Jadhav,						
3.	Kailas Prabhakar Jagtap,	Regular bail of Accu no. 2 dtd. 05.02.2017 and Accu. Nos. 3 and 4 dtd. 04.02.2017					
4.	Santosh Ramchandra Rao,						
5.	Lata Sanjay Jadhav						

**Appendix****Part C****[Para 44 (iii) of Chapter VI of Criminal Manual]  
LIST OF PROSECUTION/ DEFENCE /COURT WITNESSES****A. Prosecution:**

RANK	NAME	EXH	NATURE OF EVIDENCE
PW 1	Shaila Santosh Rao	41	Informant
PW 2	Anjanabai Macchindra Aadole	48	Eye-witness (Hostile)
PW 3	Bhausahab Madhukar Kale	50	Witness
PW 4	Devram Walu Marade	54	Panch witness
PW 5	Shitalkumar Jaywantrao Naik	59	Investigating

			Officer
PW 6	Dr. Chittranjan Thakare	Eknath	76 Medical Officer

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution :**

<b>Sr. No</b>	<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION</b>
1.	Exhibit 42 and 43/PW 1	Report and FIR.
2.	Exhibit 55/PW 4	Spot Panchanama.
3.	Exhibit 60, 61 to 66/PW 5	Order of investigation, Arrest panchanama of Accused Nos. 2 to 4, and P.R.Bond of Accused Nos. 1 and 5.
4.	Exhibit 77/ PW 6	Medical Certificate.
5.	Exhibit 80 & 81 (certified copies)	Copy of divorce petition filed by accused no. 4 and copy of written statement filed by informant.

**Abbreviations used in this Judgment (in alphabetical order)**

Code of Criminal Procedure,1973

Cr.P.C.

Indian Penal Code, 1860

IPC.

## **J U D G M E N T**

( Delivered on 24.03.2026 )

The accused are facing trial for the offences punishable under section Sec. 143, 145, 146, 147, 323, 354 and 504 read with 149 of Indian Penal Code, 1860.

**02.** The prosecution's case in short is that, the informant, Shaila Santosh Rao, aged about 35 years, is a housewife residing at Bhairavnath Mala, Pimpalgaon Mor shiwar, Ghoti, Tal- Igatpuri, District Nashik, with her parents. She was married to accused no. 4 on 21/03/2011. Since March 2012 she has been residing separate from her husband on the count of cruelty by him and his relatives. She has filed complaint with Ghoti Police Station against them. There are court cases going on between them. Prior to 8 months of the incident accused no. 4 has filed proceeding for divorce against her. Accused no. 4 approached Woman Forum at Ghoti headed by accused nos. 1 and 5 for pressurizing informant to give him divorce. As she refused to give divorce, three of them were furious.

**03.** On 01.01.2017 at about 15.45 hours at Ghoti market, while the informant was buying vegetables, accused no. 5 caught hold of her hair and pushed her towards the ground. Accused no. 1 caught hold of her blouse from behind. At the same time accused no. 4 came there alongwith two persons. Those persons asked

informant' तु संतोष यास फारकत का देत नाही, तुला तर आता आम्ही दाखवतोच'. Accused no. 1 kicked on her chest, accused no. 5 kicked on her stomach and accused nos. 2 to 4 assaulted her with kicks and fists blows. She was recused by Anjanabai Aadole, her acquittance from Girnare village. Informant called her brother from the mobile of Anjanabai. Her brother took her to the hospital for treatment. She was treated at Civil Hospital and SMBT Hospital. She got to know the names of accused nos. 2 and 3 from her brother. She lodged report on 28/01/2017 which was recorded by Police Inspector of Wadiwarhe Police Station at her residence.

**04.** On the basis of the above mentioned report, the offence punishable under section 143, 145, 146, 147, 323, 354 and 504 read with 149 of the Indian Penal Code came to be registered against the accused vide crime No. 17/2017 at Ghoti Police Station. The investigation was carried out by Shri. Sheetalkumar Naik PSI, of Wadiwarhe Police Station. During investigation, I.O. has recorded the statements of witnesses, visited the spot of incident and prepared spot panchanama. He obtained medical certificate of the informant. On completion of investigation, he filed charge-sheet against the accused nos. 1 to 5 for the offence punishable under section 143, 145, 146, 147, 323, 354 and 504 read with 149 of IPC.

**05.** My learned predecessor has framed charge (Exh.30) against the accused for the offences punishable under section 143, 145, 146, 147, 323, 354 and 504 read with 149 of IPC. The charge was read over and explained to the accused in vernacular to which they pleaded not guilty and claimed to be tried. The prosecution has produced evidence and examined witnesses as described above mentioned table in Part C. The statement of accused under section 313 of Cr.P.C. came to be recorded vide Exhs. 82 to 86. The defence of the accused is that of total denial and that they are implicated in false case.

**06.** Heard Learned A.P P. Mr. Rike, Learned Defence Counsel Mr. G.P. Chavan for accused nos. 1 and 5 and Mr. D.S.Khatale for accused nos. 2 to 4. Ld. Advocate for informant has filed written notes of argument at Exh. 90.

**07.** From the charge (Exh. 30) and evidence on record, I find that there is no order to disperse the unlawful assembly and punishment for offence under section 146 is provided in section 147 IPC. Hence, points for charge under section 145 and 146 of IPC is not framed. Therefore, following points arise for determination and I have recorded reasons along with my findings as under:-

<b>Sr No.</b>	<b>Points</b>	<b>Findings</b>
<b>01.</b>	Does the prosecution prove that on 01/01/2017 at about 15.45 hours, at Ghoti market, Ghoti, Tal-Igatpuri, Dist.Nashik, accused nos. 1 to 5 being aware of facts of an unlawful assembly, intentionally joined that assembly and thereby they have committed an offence punishable under section 143 of IPC ?	<b>No.</b>
<b>02.</b>	Does the prosecution prove that on the same date time and place accused no. 1 to 5 being member of an unlawful assembly used force or violence in prosecution of the common object of such assembly and thereby they have committed an offence of rioting punishable under section 147 of IPC ?	<b>No.</b>
<b>03.</b>	Does the prosecution prove that on the above date time and place accused no. 1 to 5 being member of an unlawful assembly voluntarily caused hurt to the informant in prosecution of their common object and thereby committed an offence punishable under section 323 read with 149 of IPC ?	<b>No.</b>
<b>04.</b>	Does the prosecution prove that on the above date time and place accused no. 1 being member of an unlawful assembly torn out the blouse of informant by using criminal force intending to outrage modesty of informant and thereby accused nos. 1 to 5 have committed an offence punishable under section 354 read with 149 of IPC ?	<b>No.</b>
<b>05.</b>	Does the prosecution prove that on the same date time and place accused no. 1 to	

5 being member of an unlawful assembly in prosecution of their common object insulted the informant and thereby gave provocation intending or knowing it to be likely that such provocation will cause her to break public peace or to commit any other offence and thereby they have committed an offence punishable under section 504 read with section 149 of IPC ?

**No.**

**06.** What order ?

**Accused  
are  
acquitted.**

### REASONS

#### AS TO POINT NOS. 1 to 5 :

**08.** Before discussing the points in connection with the offence, I will consider the aspects regarding spot of incident, common object for forming unlawful assembly and delay in filing FIR.

**09.** Prosecution has examined PW 4 Devram who is spot panch witness. He has supported the prosecution and proved the spot panchanama at Exh. 55. During the cross-examination, PW 4 Devram has admitted that he knew accused no. 1 and 5 as one of them was village headman and the other was the head of a political party. He has also admitted that he has contested the election for municipal council and could not succeed. Hence, it is admitted that Accused nos.1, 5 and PW 4 Devram are politically active.

Further, PW 4 Devram has admitted that he is acquainted with I.O Shri Naik since last 10 years. All these facts and circumstances show that PW 4 Devram is not natural witness but has some interest in the present matter.

10. Moreover, it is pertinent to mention here that the alleged incident took place on 01/01/2017 and the spot panchanama was prepared on 30/01/2017 which is after 29 days of the incident. Considering the alleged incident, spot panchanama is not so significant to prove any accusation against accused persons. It is only relevant in respect of place of occurrence of alleged incident and not more than that.

11. Prosecution has alleged that the common object of forming unlawful assembly was to coerce PW 1 Shaila to give divorce to accused no. 4. The martial relation between them is admitted position. The certified copies as at Exh. 80 & 81 show that there is divorce proceeding going on between them. It shows that accused no.4 was interested in obtaining divorce. However, only this fact cannot be considered as a proof of common object for forming unlawful assembly. There is no independent witness examined by prosecution. The only eye-witness PW 2 Anjanabai has also turned hostile. Therefore, doubt is raised in respect of unlawful assembly and its common object. Hence, I hold that prosecution has failed to prove that

accused nos. 1 to 5 formed unlawful assembly & they did so in prosecution of their common object.

**12.** The alleged incident took place on 01/01/2017 and the report is lodged on 28/01/2017. PW 1 Shaila has testified that after the incident her brother i.e. PW 3 Bhusaheb took her to the Civil Hospital Nashik for treatment. During the cross-examination, she has admitted that after the alleged incident till her brother arrived, she was sitting on the stairs of Marimata Mandir and the Ghoti Police Station is walking distance away from the spot of incident. If so, PW 1 Shaila had sufficient time in her hands to reach out the police station for help. However, she did not do so.

**13.** Moreover, in the chief-examination, she has testified that after the incident she went to Civil Hospital, Nashik with her brother. However, again she has testified that her brother took her to Ghoti Police Station but, they did not lodge her report, but sent her for treatment. It shows that, PW 1 Shaila is making two different statements at the same time. If she was sent for treatment by Ghoti Police Station, why did not officer of the Ghoti Police Station register her complaint.

**14.** PW 1 Shaila has also testified that she was under treatment for three days at Civil Hospital, Nashik and thereafter she is being treated at SMBT Hospital. However,

she has not produced documents in that regard on the record. The medical certificate(Exh.77) reveals that PW 1 Shaila has suffered simple injury. If so, what prevented PW 1 Shaila from lodging the report at the earliest. The reason of medical treatment given by her is not sufficient, reasonable and justified to consider that delay in lodging FIR is not fatal to the case of prosecution. It is mentioned in the medical certificate that she was referred by Wadiwarhe PHC. But, She has not testified if she visited Wadiwarhe PHC. Thus, the submission that time consumed in medical treatment caused delay appears to be false. Hence, I hold that delay in lodging FIR is significantly injurious to the case of prosecution.

**15.** PW 1 Shaila has testified that, accused nos. 1 to 5 assaulted her with kicks and fist blows. Except her testimony, prosecution has failed to examine any independent eye-witness. PW 2 Anjanabai is cited as eye-witness. However, she has turned hostile. PW 3 Bhausahab has not witnessed the alleged incident. Hence, as per the case of prosecution, PW 1 Shaila is the sole witness and victim. Sole testimony of victim can form basis for conviction if it is corroborated by other evidence in material aspects. It is necessary to see, if evidence of PW 1 Shaila is cogent and corroborated by other supporting evidence.

**16.** PW 6 Dr. Thakare has testified that, he examined PW 1 Shaila at about 8.00 pm on 01/01/2017. It is submitted that PW 1 Shaila suffered blunt trauma on her abdomen which is simple injury. During the cross-examination, he has admitted that he has not brought the original MLC register and he has testified on the basis of medical certificate enclosed with the charge-sheet. The medical certificate at Exh. 77 contents handwriting in two different inks i.e. blank and blue. PW 6 Dr. Thakare has not mentioned the identification mark on the certificate. He has also testified that the patient was referred by Wadiwarhe PHC. However, PW 1 Shaila has nowhere testified that she went to Wadiwarhe PHC. Due to these contradictions, I am doubtful whether PW 6 Dr. Thakare has examined PW 1 Shaila or not. Hence, I hold the evidence of medical officer is not cogent and trustworthy.

**17.** The testimony of PW 1 Shaila is not supported by independent evidence neither it is corroborated by cogent medical evidence. Hence, the allegation as to voluntary causing hurt by accused nos. 1 to 5 being member of an unlawful assembly and in prosecution of common object is not proved beyond reasonable doubt.

**18.** Sec. 354 of IPC provides that, whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her

modesty shall be punished. In the present case, PW 1 Shaila has testified that accused no. 1 has torn out her blouse from behind and he kicked her on chest. However, she has mentioned in the report that accused no. 1 caught hold of her blouse from behind. The report nowhere reveals that the blouse was torn out. It is pertinent to note that the said blouse is not seized during the investigation. There is no independent witness. Therefore, the fact of outraging modesty of PW 1 Shaila is not supported by any trustworthy independent evidence.

**19.** In view of the above reasons, I hold that prosecution has failed to prove that accused no. 1 used criminal force or assaulted PW 1 Shaila with intent to outrage her modesty. Hence, prosecution has failed to establish the offence u/s 354 of IPC against accused no. 1 beyond reasonable doubt. Therefore, accused nos. 1 to 5 cannot be held liable for offences of outraging modesty of PW 1 Shaila in prosecution of common object of an unlawful assembly.

**20.** PW 1 Shaila has not mentioned the exact words of insult. The statement ' तु संतोष यास फारकत का देत नाही, तुला तर आता आम्ही दाखवतोच'. nowhere reveals any words of insult which could provoke her to break the public peace or to commit any offence. Therefore, in absence of exact words of insult it cannot be concluded that accused nos. 1 to 5 have

committed offence of intentional insult punishable under section 504 of IPC.

**21.** In view of the above reasons, I hold that prosecution has failed to prove the charges against accused nos. 1 to 5 for the offences punishable under section 143, 147, 323, 354 and 504 read with 149 of IPC. Hence, I answer point nos. 1 to 5 in negative.

**As to point no. 6 :**

**22.** As findings on point nos. 1 to 5 are in negative, accused nos. 1 to 5 deserve to be acquitted of the offences punishable under section 143, 147, 323, 354 and 504 read with 149 of I.P.C. vide section 248(1) of Cr.P.C.

**23.** As per the record the alleged incident took place within the jurisdiction of Ghoti Police Station and the investigation is carried out by PSI of Wadiwarhe Police Station. PW 5 I.O Shri Naik has testified that the investigation of the said crime was allotted to him by Police Inspector of Ghoti Police station vide order below Exh. 60. Exh. 60 is letter dtd. 29/01/2017 from Ghoti Police Station to Wadiwarhe Police Station which reads that on being registration of offence, it is sent for investigation to Wadiwarhe Police Station.

**24.** As per sec. 156 of Cr.P.C any officer in charge of police station may investigate any cognizable case within the limits of such station. As per this provision in the present case, the investigation should have been carried out by officer of Ghoti Police Station as the alleged incident took place within the local limits of Ghoti Police Station. At the most, the investigation could have been carried out by police officer superior in rank to an officer of Ghoti Police Station as per sec. 36 of Cr.P.C. However, letter Exh. 60 shows that investigation is not carried out by any officer superior in rank to an officer of Ghoti Police Station.

**25.** Moreover, by whose permission officer of the Ghoti Police Station forwarded the report and crime to Wadiwarhe Police Station for investigation is not mentioned in letter Exh. 60. Such act of forwarding investigation by Ghoti Police Station to Wadiwarhe Police Station is not lawfully justified by prosecution. In addition to this, acquaintance of 10 years of PW. 4 Devram with PW 5 IO Shri. Naik has given sufficient space for doubt that the investigation has been managed though it has not resulted in serious miscarriage of justice. However, carrying out investigation without lawful authority is not warranted as per the provisions of Cr.P.C. Therefore, I find it necessary to bring it to the notice of superior officer of both the police stations i.e Superintendent of Police, Nashik for information

and necessary action. Thus, in answer point no. 6, I pass the following order.

**-: ORDER :-**

1. Accused nos. 1 to 5 are acquitted of the offences punishable under section 143, 147, 323, 354 and 504 read with 149 of Indian Penal Code, 1860 vide section 248(1) of the Code of Criminal Procedure, 1973.
2. Bail bonds of accused are cancelled.
3. Accused nos. 1 to 5 are directed to furnish PB and SB of Rs. 15,000/- each in compliance of provision under section 437-A of the Criminal Procedure Code, 1973 for six months to ensure their presence before Appellate Court in case of appeal against this acquittal is filed.
4. Copy of this Judgment be forwarded to the District Magistrate, Nashik vide Section 365 of the Code of Criminal Procedure, 1973.
5. Copy of this Judgment be forwarded to the Superintendent of Police, Nashik for information and necessary action.

Date :- 24.03.2026  
Place :- Igatpuri.

(Mohini Nanaware )  
Addl. Chief Judicial Magistrate,  
Igatpuri.