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Sessions Case No.94/2022

CNR No.- MHRG170012652022

Exh.No.50/A

Part 'A'

		<u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE, PANVEL, DISTRICT-RAIGAD.</u> Present: Dinesh E. Kothalikar, (B. Com. LL. M.) Additional Sessions Judge, Panvel. (07/04/2026) (Sessions Case No.94/2022)
		(FIR No.322/2021, Under Sections 313, 354-C, 354 and 109 of the Indian Penal Code, Taloja Police Station, Navi Mumbai)
PROSECUTION		STATE OF MAHARASHTRA, Through Taloja Police Station, Navi Mumbai.
PRESENTED BY		Mr. A. S. Thakur, Learned A.P.P. for the State.
ACCUSED	1.	Kashif Zainuddin Shaikh Age-25 yrs., Occu. Mobile Shop,

	2.	Jibran Zainuddin Shaikh Age-24 yrs., Occu. Mobile Shop,
	3.	Kaif Zainuddin Shaikh Age-19 yrs., Occu. Education,
	4.	Zainuddin Ahmed Shaikh Age-63 yrs., Occu. Retired,
	5.	Alsaba @ Naushaba Zainuddin Shaikh Age-49 yrs., Occu. Housewife, All R/at-301, Meena Building, Sunflower Tower, Sector-10, Phase-1, Taloja, Tal-Panvel, Dist- Raigad.
REPRESENTED BY		Advocate Mr. Prashant Narwade

Part 'B'

Date of offence	06/08/2021 to 01/09/2021
Date of FIR	01/11/2021
Date of Charge-sheet	04/07/2022
Date of Framing of Charges	06/05/2024
Date of commencement of evidence	10/02/2026
Date on which judgment is reserved	07/04/2026
Date of the Judgment	07/04/2026
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 charges with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial of purpose of Section 428, Cr.P.C
1.	Kashif Zainuddin Shaikh	08/11/21	26/11/21	Under Section 313, 354-C, 354, 109 of I.P.C.	Acquitted	--	--
2.	Jibran Zainuddin Shaikh	08/11/21	26/11/21				
3.	Kaif Zainuddin Shaikh	08/11/21	26/11/21				
4.	Zainuddin Ahmed Shaikh	09/11/21	26/11/21				
5.	Alsaba @ Naushaba Zainuddin Shaikh	Notice u.s.41A of the Cr.P.C.	-				

Part 'C'**A. Prosecution :**

RANK	NAME	NATURE OF EVIDENCE
PW-1	Mariyan Kashif Shaikh-Exh.35	Informant
PW-2	Vinaya Vivek Parasu-Exh.39	Investigation Officer

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS,
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		MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
---	No	---

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
---	No	---

List Of Prosecution/Defence/Court Exhibits

A. Prosecution

Sr. No.	Witness No.	Exhibit No.	Description
1.	PW1	36	Report
2.		37	Statement Under Section 164 of the Cr.P. Code.
3.		40	Personal Search Panchanama (Admitted by defence)
4.		41	Personal Search Panchanama (Admitted by defence)
5.		42	Seizure Panchanama (Admitted by defence)
6.		43	Seizure Panchanama (Admitted by defence)

B. Defence :

Sr. No.	Exhibit Number	Description
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C. Court Exhibits :

Sr. No.	Exhibit Number	Description
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D. Material Objects :

Sr. No.	Material Object Number	Description
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JUDGMENT

The accused persons stand prosecuted for the offences punishable under Sections 313, 354-C, 354 and 109 of the Indian Penal Code (hereinafter referred as the I.P.C.).

02. Brief facts of the prosecution case can be summarized as under,

Informant Mariyam Kashif Shaikh had lodged report with the allegations that marriage between her and accused No.1 had taken place 04.06.2021. Accused Nos.4 and 5 are the parents of accused No.1 and accused Nos.2 and 3 are the siblings of accused No.1. According to the informant, after marriage she was treated well by the accused persons for about a month. She has alleged that accused No.4 had grabbed her pressed her chest and that he had kissed on her body. She has further alleged that when she had brought the incident to the

notice of accused No.1, he had neglected it. It has been further alleged that after about a month, she was medically examined and it was found that she was carrying pregnancy, but accused No.1 was not happy with it, but he used to ask the informant to abort the child. Therefore, the informant had approached the police, but before the police had reached at the house of the informant, the accused have informed the police that the dispute has been settled . Thereafter, the informant was harassed by the accused persons. Accused No.4 had asked accused Nos.2 and 3 to remove the bed-sheet from the person of the informant and record the video.

The informant has further alleged that on 01.09.2021, she was suffering from urine infection and that accused No.1 had mixed a pill in a watermelon juice and given it to the informant and it has caused miscarriage. Therefore, the informant has lodged report against the accused persons.

03. On the basis of report lodged by informant police registered Crime No.322/2021 for the offence punishable under Sections 313, 354-C, 354 and 109 of the Indian Penal Code. During investigation accused came to be arrested and statements of the witnesses were recorded.

04. After completing investigation charge-sheet was filed in the Court of J.M.F.C. at Panvel. Since the offence punishable under Section 313 of I.P.C. is triable by the Court of Sessions,

the Learned J.M.F.C. committed the case to this Court.

05. The charge came to be framed against the accused for above mentioned offences at Exh.20, to which accused pleaded not guilty and claimed to be tried.

06. To bring home the guilt of the accused persons prosecution has examined two witnesses.

07. The statements of the accused were recorded under Sec.313 of Cr.P.C. and they have come with the defence that, false case is filed against them.

08. I have heard Ld. A.P.P. Mr. A. S. Thakur for the State and learned advocate Mr. Prashant Narvade for the accused.

09. Considering rival submissions and the evidence placed on record following points arise before me for determination to which I have recorded my finding for the reasons stated below.

Sr. No.	POINTS	<u>FINDINGS</u>
1]	Whether it is proved that on ... 06/08/2021 to 01/09/2021 at 301, Meena Building, Suflower Tower, Sector-10, Phase-1, Taloja, Tal-Panvel, Dist-Raigad accused No.1 provided pills for miscarriage to the informant and voluntarily caused the informant with child to miscarry without her consent, whether she	In the negative.

was quick with child or not and thereby committed an offence punishable under Section 313 of the IPC ?

- | | | |
|----|--|----------------------|
| 2] | Whether it is further proved that on the same date, time and place mentioned above accused Nos.2 and 3 removed the bed-sheet from the person of informant and captured her video while she was sleeping where she would usually have the expectation of not being observed by accused and thereby committed an offence punishable under Section 354-C of the IPC ? | ... In the negative. |
| 3] | Whether it is further proved that on the same date, time and place mentioned above, accused No.4, used criminal force to informant, hugged her, kissed her, pressed her chest, intending to outrage or knowing it to be likely that he will thereby outrage her modesty and thereby committed an offence punishable under Section 354 of the IPC ? | ... In the negative. |
| 4] | Whether it is further proved that on the same date, time and place mentioned above, accused No. 5, abetted accused Nos.2 and 3 to capture video of the informant by removing the bed-sheet from her person while she was sleeping where she would usually have the expectation of not being observed | ... In the negative. |

by accused and thereby committed
an offence punishable under Section
109 of the IPC ?

5] What order ?

... Accused are
acquitted as
per final order.

REASONS

AS TO POINT NOS.1 TO 4 -

10. Upon perusal of the record, it is revealed that the defence has not disputed genuineness of the panchanama about personal search Exh.P-40 and 41 and seizure panchanama Exh.P-42 and 43.

11. Upon perusal of the record it is found that the informant and the accused have placed on record application Exh.31 seeking permission to compound the offence and Exh.32 the consent terms. It goes to suggest that the parties have settled the dispute out of the court. However, since the alleged offence is non compoundable, the permission sought for could not be granted.

12. Be that as it may, in order to establish guilt of the accused, prosecution has examined PW-1 Mariam. However, except to admit the relationship with the accused persons and that she was carrying pregnancy, she has not supported to the case of prosecution. According to her, since there was quarrel

with the accused persons, she had lodged report Exh.P-36 against the accused. She has further admitted her signature below the statement Exh.P-37.

13. Thus, if the version given by PW-1 is looked into, in that case it would reveal that she has not uttered a single word on the point of alleged mental or physical harassment or that outraging modesty or that causing miscarriage by the accused persons. On the point of miscarriage, PW-1 has deposed that since she was carrying pregnancy of three months, at that time there was miscarriage, due to hustle.

14. The, learned A.P.P. was allowed to put leading question to PW-1 to extract the truth, but nothing has been elicited, even by putting leading questions to her. Therefore, the evidence of PW-1 would not take the case of prosecution any further.

15. No doubt, there is evidence of PW-2 Smt. Parasur on the point that she had recorded the report ExhP-36 as per the say of PW-1, however, the First Information Report cannot be termed to be substantive evidence and that the same can be only used to corroboration or contradiction. In absence of the substantive evidence on the point of allegations made in the report Exh.P-36, in my view the evidence of PW-2 cannot be used to establish guilt of the accused,

16. In the light of the fact that material witness i.e. PW-1

did not support to the case of prosecution, in my view, further discussion on the point of periphery evidence i.e. arrest panchanama and seizure panchanama is not required.

17. Taking note of all the aspects discussed above, I conclude that prosecution has failed to establish guilt of the accused. Hence, I answered point Nos.1 to 4 in negative.

AS TO POINT NO.5:

18. Up shot of the above discussion and the findings recorded against points No.1 to 4, the accused persons deserve to be acquitted. Resultantly, I proceed to pass following order.

ORDER

1. As per Section 235(1) of Criminal Procedure Code accused Nos.1 to 5 namely **Kashif Zainuddin Shaikh, Jibran Zainuddin Shaikh, Kaif Zainuddin Shaikh, Zainuddin Ahmed Shaikh and Alsaba @ Naushaba Zainuddin Shaikh** are acquitted for the offences punishable under Sections 313, 354-C, 354 and 109 of the Indian Penal Code.
2. Bail bonds of accused stand cancelled and surety is discharged.
3. The muddemal property i.e. the seized mobile phone of Blue coloured One Plus 7 T Pro and Gray coloured One Plus 7 T and SIM Cards be returned to accused No.4 Zainuddin after the contents of the mobile handsets are formatted.
4. The muddemal property i.e. three Pen Drives being

worthless be destroyed after appeal period is over.

5. The accused shall furnish P.R. Bond of Rs.10,000/- each with surety of like amount in compliance of Section 437-A of Cr.P. Code.

(Dictated and pronounced in open Court.)

**Panvel,
Date:- 07/04/2026.**

**(Dinesh E. Kothalikar)
Additional Sessions Judge,
Court No.2, Panvel, Dist-Raigad.**

CERTIFICATE

I affirm that the contents of the PDF file Judgment are same word for word as per original Judgment.

Name of Steno	-	Priyanka Ganesh Sakpal, Stenographer (Grade-1)
Name of Court	-	Shri. Dinesh E. Kothalikar, Additional Sessions Judge, Panvel, Dist-Raigad.
Date of Order	-	07/04/2026
Order signed by PO on	-	07/04/2026
Order uploaded on	-	07/04/2026