



Received on : 13/04/2018
Registered on : 16/04/2018
Decided on : 30/04/2026
Duration : 08Y, 00M, 14D

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, WASHIM

(Presided over by J. P. Zapate)

Criminal Appeal No.12/2018
(CNR No.MHWS060003832018)

Exh. No.64

1. Prakash Dnyanba Dhande
Age about : 24 years, Occup. : Labour
2. Gautam Bhanudas Dhande
Age about : 28 years, Occup. : Agriculturist
3. Kiran Sudama Dhande
Age about : 29 years, Occup. : Agriculturist

All r/o. Karada, Tq. Risod, Dist. Washim.

..Appellants

VER S U S

The State of Maharashtra,
Through : Police Station Officer,
Risod, Dist. Washim.

..Respondent

APPEAL : U/SEC.374 OF THE CRIMINAL PROCEDURE CODE.

ADVOCATES :

For Appellants : Shri. A. R. Deshpande
For Respondent : APP Shri. S. N. Kaloo



Received on : 18/04/2018
Registered on : 19/04/2018
Decided on : 30/04/2026
Duration : 08Y, 00M, 11D

Criminal Appeal No.13/2018
(CNR No.MHWS060004092018)

Exh. No.40

Devanand Devidas Ambhore
Age about : 27 years, Occup. : Labour
r/o. Karada, Tq. Risod, Dist. Washim.

..Appellant

VER S U S

The State of Maharashtra,
Through : Police Station Officer,
Risod, Dist. Washim.

..Respondent

APPEAL : U/SEC.374 OF THE CRIMINAL PROCEDURE CODE.

ADVOCATES :

For Appellant : Shri. G. D. Ambhore
For Respondent : APP Shri. S. N. Kaloo

COMMON JUDGMENT

(Delivered on this 30th day of April, 2026)

These are appeals preferred by accused persons against the judgment of conviction dtd. 22/03/2018 delivered by the ld. Judicial Magistrate (First Class), Risod in Reg. Criminal Case No.65/2012, State Vs. Prakash Dnyanba Dhande+3, whereby the ld. trial Court convicted the appellants/accused for the offences punishable under Sections 452 and 354 of IPC and sentenced them to undergo rigorous imprisonment

for 2 years and to pay fine of Rs.1,000/- each for the offences punishable under Section 452 of IPC and further sentence to undergo rigorous imprisonment for 2 years and to pay fine of Rs.1,000/- each for the offences punishable under Section 354 of IPC.

Prosecution Case :

2] Brief facts of the prosecution need be stated at the beginning which are as under :-

Sapana Gajanan Dhande (*in short the prosecutrix*) lodged a report at Police Station, Risod complaining therein that on 09/02/2012 at 9.00 a.m., while she was alone at her house at village Karda, Tq. Risod, Dist. Washim, Prakash Dnyanba Dhande, Gautam Bhanudas Dhande and Kiran Sudam Dhande i.e. accused Nos.1, 2 and 3 entered into her house and accused No.4 Devanand Devidas Ambhore remained standing out of door. Accused No.1 Prakash caught hold her hand with an evil intention and pulled her towards him. He also touched her cheek. When she asked to the accused to leave her, he abused her. She screamed and started to cry then accused threatened her that if she discloses this fact to her parents, he will kill them. Then because of outcry of the prosecutrix, all accused persons went out of house of the prosecutrix.

3] Upon receiving of this information crime No.31/2012 came to be registered for the offences punishable under Sections 452, 354, 506 r/w Section 34 of IPC. ASI – Shri. Akbar Khan Pathan carried out the investigation and the officer in charge of the Risod police station filed charge-sheet against the accused persons for the offences punishable under Section 452, 354 r/w 34 of IPC.

4] Charge Exh.21 was came to be framed and after recording evidence and statement under Sections 313 of Cr.P.C. recorded and then after hearing arguments ld. trial Court framed two points and ultimately convicted them. As stated above having aggrieved above the judgment present two appeals are preferred by these accused on the grounds mentioned in the appeal memo.

Evidence :

5] The prosecution have examined four witnesses i.e. PW-1 Asha Gajanan Dhande (Exh.29), informant - PW-2 Sapana Gajanan Dhande (Exh.35), PW-3 Satish Sopan Dhande (Exh.50) and Investigating Officer PW-4 Akbar Khan Abdul Rahaman Khan Pathan (Exh.56) and failed to secure presence of other witnesses, hence prosecution side was closed vide order below Exh.1. Prosecution have also relied on FIR Exh.36, panchanama of spot of incident Exh.51 and arrest panchanama Exh.58 to 60.

Arguments :

6] It is argued by ld. advocate Shri. Deshpande and Shri. Ambhore for appellants that evidence of sole eye witness is relied on by the ld. trial Court, while appreciating her evidence the ld. trial Court has not considered material omissions. The independent witnesses from the locality are not examined. There is a delay of lodging of FIR. But all these factors are not considered by the ld. trial Court and had erroneously convicted accused. Hence, they are praying for setting aside the judgment of conviction and acquittal for the offences.

7] Per contra, it is argued by the ld. APP Shri. Kaloo that there is no need of corroboration to a victim in the case of outraging her

modesty. She has remained stick up with her statement and FIR which rightly considered by the ld. trial Court. Hence, they are praying for dismissal of the appeal.

8] Having heard perused record and proceeding following points arise for my consideration together with my findings thereon for the reasons recorded below :-

Sr. No.	POINTS	FINDINGS
1]	Does the prosecution prove that on 09/02/2012 at about 9.00 a.m. at village Karada in the house of informant Sapna, all accused in furtherance of their common intention used criminal force to the informant Sapna Gajanan Dhande intending to outrage her modesty and thereby committed an offence punishable u/s. 354 r/w 34 of IPC ?	In the negative
2]	Does it further prove that on the same date, time and place all accused in furtherance of their common intention committed house tress pass by entering into the house of the informant used as human dwelling having made preparation for causing hurt to the informant and thereby committed an offence punishable u/s. 452 r/w 34 of IPC ?	In the negative
3]	Whether interference is required in the impugned Judgment passed by ld. trial court ?	In the affirmative
4]	What order ?	Appeal is allowed.

:: REASONS ::

Point Nos. 1 to 4 :

9] PW-1 Asha Dhande (Exh.29) admittedly not present in the

house at the time of alleged incident. PW-3 Satish Dhande (Exh.50) is a panch witness on panchanama of spot of incident. PW-4 is Investigating Officer Shri. Abdul Khan (Exh.56) he stated that he had prepared panchanama of spot of incident. Hence, he is also not a eye witness.

10] The only witness to the incident is the informant PW-2 Sapna Dhande (Exh.35). She has stated that on 09/09/2012 at about 9.00 a.m., she was present alone in her house, at that time accused Gautam Dhande, Kiran Dhande and Prakash Dhande entered in her house. Accused Devanand Ambhore was standing outside her house. Accused Prakash Dhande caught her hand with ill motive and touched her cheek. Then they abuses to her. She started crying loudly on which accused threatened her to kill by life. She had proved her FIR Exh.36.

11] After considering her cross-examination, it reveals that there are material omissions in her evidence which amounts to contractions, because in her FIR it is not mentioned that Devanand Ambhore was standing outside her house. So also, it is not mentioned that three accused abused her and threatened to kill her parents by life. It is not mentioned in her FIR that nobody was present there. Hence she was helpless. Her cross-examination shows that on 08/02/2012 her sister Ashwini died due to burn injuries and her father immediately informed about her death to the villagers and relatives. The house of her uncle Datta is just adjacent to her house. She has admitted that after the death of her sister Ashwini preparation of her funeral ceremony was started by her relatives since the morning of 09/02/2012. This shows that on 09/02/2012 since morning her relatives were started preparation for funeral of Ashwini. Then it could

not be believed that on 09/02/2012 at about 9.00 a.m. she was alone in her house and incident is occurred. So her admission makes the incident improbable.

12] The house of her uncle Datta was just adjacent to her house. The road in front of her house is a crowd road, then question arises why she did not shout for the help at the time of alleged incident. So her conduct is unnatural. Except the role of accused Prakash Dhande, she has not attributed any role of outraging the modesty by the accused. But the role of accused Prakash Dhande is also not believable due to her unnatural conduct. As stated that accused Devanand Ambhore standing outside her house. This material omission in her FIR. So accused Devanand Ambhore neither entered in her house nor he outraged her modesty, still ld. trial Court has convicted him without any evidence against him. Four accused are arrayed in this crime. The ld. trial Court convicted them for the offences punishable under Sections 452 and 354 of IPC without application or without invoking of Section 34 of IPC. So, their common intention is not proved. Therefore the ld. trial Court has not invoked Section 34 of IPC. Thus, how all the accused could be convicted.

13] The sum of substance as above discussion is that even though the evidence of sole witness can be based for conviction, but for that purpose there should be close scrutiny of evidence of such witnesses and the evidence could be trustworthy and credible. But here for the reasons stated above the evidence of sole witness of informant PW-2 Sapna Dhande is not sufficient to held the accused guilty. This position is not considered by ld. trial Court and it wrongly convicted

the accused. Hence, there is share need of interference in the impugned judgment passed by the ld. trial Court. So, the impugned judgment is unsustainable and it needs to be quashed and set aside. Resultantly, appeal has to be allowed and accused persons need to be acquitted for all the offences punishable under Sections 452 and 354 of IPC and hence, I recorded my findings on the **point Nos. 1 & 2 in the negative, point No.3 in the affirmative** and in answer to **point No.4**, I proceed to pass the following order :-

:: ORDER ::

- 1] Both appeals are allowed.
- 2] Impugned Judgment and Order in Reg. Cri. Case No.65/2012 passed by the J.M.F.C., Risod, is quashed and set aside.
- 3] All appellants/accused stand acquitted and set at liberty for the offences punishable under Sections 452 and 354 of IPC.
- 4] Fine amount, if any, deposited by the accused be refunded to them, after appeal period is over.
- 5] Bail bonds of the accused persons stand discharged.
- 6] Appellants/accused should furnish PB and SB of Rs.10,000/- each as a compliance towards Section 437-A of Cr.P.C.
- 7] Record of the proceeding be sent to the trial Court.
- 8] Original Judgment be kept in Criminal Appeal No.12/2018 and its copy be kept in Criminal Appeal No.13/2018.

Place : Washim
Date : 30/04/2026

(J. P. Zapate)
Additional Sessions Judge,
Washim.

Common Judgment

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Cri. Appeal No.12/18 & 13/18

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/Order are same word to word, as per the original order :-

Name of the Stenographer

:- Nitin B. Khandare, Stenographer (Grade-1)

Court Name

:- District Judge-1 & Additional Sessions Judge, Washim

Date

:- 30/04/2026

Order signed by the Presiding Officer on

:- 30/04/2026

Order uploaded on

:- 30/04/2026