

Form No. XXXII

Part 'A'

(Title Page of Judgment)

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

MHWS040011882020 	<u>IN THE COURT OF JUDICIAL MAGISTRATE, FIRST CLASS MANGRULPIR, TAL. MANGRULPIR, DIST. WASHIM</u> <u>Presided over by : K. C. Kalal</u> (Delivered On 05th June, 2026) R.C.C. No.149/2020 Exh.21 Crime No.I : 188/2020 Police Station, Mangrulpir, Tq.Mangrulpir, Dist. Washim.	
Complainant/ Informant		State of Maharashtra, Through, P.S.O., Police Station, Mangrulpir, Tq. Mangrulpir, Dist. Washim.
REPRESENTED BY		A.P.P. Mr. S. M. Bakaliwal
ACCUSED		Mahadev Keshav Gaikwad, Age-27 years, Occ. : Labour, R/o. Tarhala, Tal. Mangrulpir, Dist. Washim
REPRESENTED BY		Mr. N. M. Muley / R. M. Rokade

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

Date of offence	23/03/2020
Date of F.I.R.	25/03/2020
Date of charge sheet	09/09/2020
Date of framing charges	23/09/2025
Date of commencement evidence	10/11/2025
Date on which judgment is reserved	05/06/2026
Date of the judgment	05/06/2026
Date of the sentencing order, if any	Nil.

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.	Mahadev Keshav Gaikwad	Released on notice u/s 41-A of the Cr. P. C.	--	Under Sec.354 of I.P.C.	Acquitted	Nil.	Not applicable.

Part 'C'

[Para 44 (iii) of Chapter VI of Criminal Manual]

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**A. Prosecution :**

RANK	Exh. No.	NAME	NATURE OF EVIDENCE
PW-1	13	Sandip Mahadev Raut	Hearsay Witness
PW-2	14	Kailas Mahadev Sawadh	Hearsay witness
PW-3	15	Lalita Kailas Sawadh	Hearsay witness
PW-4	16	Raju Jairam Chambhare	Spot Panch

B. Defence witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
Nil.	Nil.	Nil.

C. Court witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
Nil.	Nil.	Nil.

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**A. Prosecution :**

Sr.No.	Exh. No.	Description
1.	17	Spot panchnama

B. Defence :

Sr.No.	Exh. No.	Description
1.	Nil.	Nil.

C. Court Exhibits :

Sr.No.	Exh. No.	Description
1.	Nil.	Nil.

D. Material Objects :

Sr.No.	Exh. No.	Description
1.	-	Nil.

J U D G M E N T

1. The accused is facing trial for having committed an offence punishable under section 354 of the Indian Penal Code, 1860 (for short I.P.C.).

The case of prosecution in nutshell is as under :-

2. On 23.03.2020, at about 1.30 p.m., at village Tarhala, Tal. Mangrulpir, Dist. Washim, the incident in question took place. On that day and time, the informant was proceeding towards the women's open latrine place carrying water in a container for answering nature's call. At that time, the accused was standing on the road there. The informant went to the said place and, while returning by the same road, noticed that a tractor was standing on the road. At that time, the accused came there and, with bad intention, threw away the container from the hand of the informant, caught hold of her hand and forcibly outraged her modesty. The informant gave a forceful jerk to the hand of the accused and ran away from the spot to her house.

3. Thereafter, the informant lodged report at Mangrulpir Police Station. Accordingly, Crime No. I-188/2020 came to be registered against

the accused for the offence punishable under Section 354 of the I.P.C. During investigation, the Investigating Officer drew spot panchanama, recorded statements of witnesses and after completion of investigation, filed charge-sheet against the accused before the Court.

4. Charge framed below Exhibit-10 for the offence punishable under Section 354 of the I.P.C. against accused. The contents of charge were read over and explained to the accused in vernacular. The accused pleaded not guilty and claimed to be tried. After completion of prosecution evidence, statement of accused under Section 313 of the Code of Criminal Procedure was recorded at Exhibit-18. The defence of the accused is of total denial and false implication. The accused has not led any defence evidence.

5. Heard learned A.P.P. S. M. Bakaliwal for the State and learned advocate N. M. Muley / R. M. Rokade for the accused. Upon considering the prosecution case, oral and documentary evidence on record, following points arise for my determination and I record my findings thereon for the reasons to follow :-

<u>Sr. No.</u>	<u>Points for Determination</u>	<u>Findings</u>
1	Whether the prosecution proves that on 23.03.2020 at about 1.30 p.m. at village Tarhala, Tal. Mangrulpir, Dist. Washim, the accused assaulted or used criminal force on the informant, a woman, intending to outrage or knowing it to be likely that thereby her modesty would be outraged, and thereby committed offence punishable under Section 354 of the I.P.C.?	In the Negative
2	What order?	As per final order

REASONS**AS TO POINT NO. 1 :-**

6. In order to bring home the guilt of the accused for the offence punishable under Section 354 of the I.P.C., the prosecution was required to prove beyond reasonable doubt that the accused used assault or criminal force upon the woman and that such act was done with intention to outrage, or with knowledge that it was likely to outrage, her modesty. The burden always lies upon the prosecution and the accused is entitled to benefit of every reasonable doubt.

7. To prove its case, the prosecution examined four witnesses only. Out of them, witness No.1 Sandeep Mahadev Savadh, witness No.2 Kailas Mahadev Savadh and witness No.3 Lalita Kailas Savadh are not eye-witnesses to the actual incident. Their evidence is admittedly based on what was told to them by the informant after the alleged occurrence. Therefore, their evidence is hearsay in nature so far as the actual incident is concerned.

8. Prosecution witness No.1 Sandeep Mahadev Savadh is the husband of the informant. He deposed that on 23.03.2020 at about 1.30 p.m., his wife had gone for answering nature's call. According to him, after returning home she was crying and narrated to him that the accused had thrown away the container from her hand, caught her hand and committed her molestation. He further stated that due to illness of his elder daughter and his own difficulty, report could not be lodged on the same day and therefore report was lodged on 25.03.2020.

9. The evidence of this witness is not direct evidence of the occurrence. He had not seen the incident. His testimony only shows that the informant allegedly narrated the incident to him after coming home.

Though such evidence may explain subsequent conduct, it cannot by itself prove the actual act of assault or use of criminal force by the accused. In his cross-examination, he admitted that the road from Shelubazar to Tarhala is a highway road on which buses, autos and other vehicles frequently ply, that women go there for answering nature's call and that the place is away from the village. Thus, it was not shown that the place of the incident was so isolated that independent persons could not be present.

10. Prosecution witness No.2 Kailas Mahadev Savadh is brother of witness No.1. He deposed that the informant had gone for answering nature's call and that the accused was standing near the tractor. He further stated that the informant came home crying and disclosed the incident. However, in his cross-examination, he admitted that he had not stated before police that the accused remained standing near the tractor till the informant returned. This omission is material, because it constitutes an improvement on an important aspect of the prosecution story.

11. This witness also admitted that at present the informant and witness No.1 Sandeep are divorced and that the informant has been residing at her parental house since last two to three years. This circumstance by itself is not sufficient to discard prosecution, but it is relevant while appreciating whether the witnesses are wholly reliable, especially when all examined witnesses are close relatives and none is an independent witness.

12. Prosecution witness No.3 Lalita Kailas Savadh is the wife of witness No.2 and sister-in-law of the informant. She deposed that the informant had gone for answering nature's call, that a tractor and the accused were standing there, and that the accused had caught hold of the

hand of the informant. However, from her own deposition, it is clear that she was not present at the spot at the time of incident and that the informant told her about the incident at about 5.00 p.m. when she returned home from the field. Thus, her evidence is again hearsay on the material part.

13. In her cross-examination, she admitted the close relationship between herself, the informant and other prosecution witnesses. She also admitted that the informant and Sandeep are divorced and that due to the said incident their marital separation took place. This witness also does not provide direct evidence of the occurrence.

14. Thus, careful reading of evidence of prosecution witnesses No.1 to 3 shows that none of them had actually seen the accused catching the hand of the informant or using criminal force upon her. Their evidence is only of post-occurrence disclosure allegedly made by the informant. In a case under Section 354 of the I.P.C., the testimony of the victim can certainly be sufficient if it inspires confidence. However, in the present case, the informant herself has not entered the witness box. This is the most serious lacuna in the prosecution case.

15. Prosecution witness No.4 Raju Jayaram Chambhare was examined as panch witness to the spot panchanama. He deposed that police called him while he was going to the field and took his signature on the spot panchanama. He stated that there were latrine sheds at the place and that a tractor was standing there. However, in his cross-examination, he admitted that police had not given him any notice for coming to the spot, that police simply asked him to sign the panchanama, that he did not know the contents thereof, and that the spot panchanama was not drawn in his presence.

16. In view of these admissions, the evidentiary value of the spot panchanama is substantially weakened. It cannot be said that the contents of the spot panchanama are duly proved through this witness. At the most, it shows the location of the place referred by police, but it does not advance the prosecution case regarding the actual incident of molestation.

17. The spot panchanama at Exhibit-17 shows that it was drawn on 25.03.2020 between 4.00 p.m. and 4.30 p.m. on the road leading towards the women's open latrine place at village Tarhala. The boundaries mentioned therein only identify the place. Mere proof of place of occurrence is not enough unless the substantive incident is proved by reliable evidence.

18. It is further important to note that the prosecution has not examined the most material witness, namely, the informant Pournima Sandeep Savadh. The prosecution has also not examined the Investigating Officer. Non-examination of the informant strikes at the very root of the case, because she alone was the direct witness to the alleged act. In absence of her testimony, the Court is deprived of the primary version regarding the incident, identity of accused, nature of act, surrounding circumstances, and the exact conduct attributed to the accused.

19. Non-examination of the Investigating Officer has also prejudiced the case of prosecution. Because of his non-examination, omissions and improvements brought in the cross-examination of prosecution witnesses No.1 to 3 could not be duly proved in the manner known to law. Similarly, the defence lost opportunity to question the Investigating Officer regarding delay in lodging report, scene of offence, non-examination of independent witnesses and non-production of other relevant material.

20. The charge-sheet papers show that several other witnesses were cited, including the informant, another panch witness, relatives of prosecution witnesses and the Investigating Officer. Yet, the prosecution did not examine them. No satisfactory explanation is available on record for withholding the informant herself. When the star witness and victim is withheld, the Court has to be extremely cautious in acting upon only hearsay evidence of related witnesses.

21. There is also a delay in lodging the first information report. The incident allegedly occurred on 23.03.2020 at about 1.30 p.m., whereas report came to be lodged on 25.03.2020. Witness No.1 tried to explain the delay by stating that his daughter was unwell and that he had difficulty regarding use of toilet. In cases involving offence against a woman, mere delay by itself is not always fatal. However, in the present case, when the direct testimony of the informant is absent and only related hearsay witnesses are examined, the delay assumes significance and requires closer scrutiny.

22. The prosecution has not examined any independent witness though the evidence of witness No.1 itself shows that the place is on or near a highway road where buses, autos and other vehicles regularly pass. The prosecution has also not brought on record any circumstance showing why no independent person from village or nearby area could be examined. Though independent evidence is not a rule of law in every case, its absence here adds to the doubt, particularly because all examined material witnesses are close relatives.

23. The Court is conscious that offences under Section 354 of the I.P.C. are usually committed in privacy and therefore independent eye-witnesses may not always be available. It is equally true that conviction

can be based on the sole testimony of the victim if her evidence is reliable and trustworthy. However, in the present case, the victim has not been examined at all. Hence, the Court cannot substitute her unrecorded version by hearsay account of her relatives.

24. Upon overall appreciation of evidence on record, it emerges that there is no direct evidence of the incident, prosecution witnesses No.1 to 3 are hearsay witnesses and closely related to the informant, witness No.2 made material omission/improvement, the panch witness to spot panchanama did not support due execution of the panchanama in a proper manner, the informant herself, being the star witness, has not been examined, the Investigating Officer has also not been examined, and no independent witness has been examined though the place was not shown to be completely isolated.

25. Criminal law requires proof beyond reasonable doubt. Suspicion, however strong, cannot take place of legal proof. In absence of substantive and reliable evidence of the victim herself, and in view of the deficiencies noted above, it would be unsafe to hold that the prosecution has proved that the accused used criminal force upon the informant with intention or knowledge contemplated by Section 354 of the I.P.C.

26. Therefore, I hold that the prosecution has failed to prove point No.1 beyond reasonable doubt. The accused is entitled to benefit of doubt. Hence, point No.1 is answered in the Negative.

AS TO POINT NO. 2 :-

27. In view of discussions and findings recorded below point No.1, I came to conclusion that the accused is liable to be acquitted of the offence punishable under Sections 354 of the I.P.C. In the result, following order is passed.

ORDER

1. The accused Mahadev Keshav Gaikwad is acquitted of the offence punishable under Section 354 of the Indian Penal Code, 1860, by virtue of Section 248(1) of the Code of Criminal Procedure.
2. Bail bond of the accused stands cancelled and surety stands discharged.
3. The accused shall comply with the provisions of Section 437-A of the Code of Criminal Procedure by executing requisite bond to appear before the appellate Court, if so called.

Pronounced in open court.

Date : 05/06/2026

(Khwaja. C. Kalal)
Judicial Magistrate First Class, Mangrulpir,
Tal. Mangrulpir, District Washim.

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 Court	:-	Jt. Civil Judge (Jr.Dn.) and J.M.F.C., Mangrulpir, Dist. Washim.
Presiding Officer	:-	Khwaja C. Kalal
Judgment uploaded by	:-	Shri. S. S. Rathod (Jr. Clerk)
Date of Judgment	:-	05/06/2026
Judgment/Order signed by the presiding officer on	:-	05/06/2026
Judgment/Order uploaded on	:-	05/06/2026