

MHWS080008402022



Presented on : 27.05.2022

Registered on : 27.05.2022

Decided on : 22.07.2026

Duration : Ys. M. Ds.
04 01 26

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, COURT NO.
03, RISOD, DIST.WASHIM.**

(Present: Shri. Kiran D. Lukde)

Date of Judgment : 22.07.2026

Regular Criminal Case No. 170 of 2022

Exh. No. 41

(FIR/Crime No. 0212 of 2022 of Risod Police Station, Dist. Washim.)

Prosecution	:	State of Maharashtra, Through -Officer-in-charge of Risod Police Station, Tq. Risod. Dist. Washim.
Represented by	:	Shri. M.D.Adkine, Assistant Public Prosecutor
Accused	:	Aanand @ Anil Madhav Hade Age: 25 Yrs, Occ. Agriculturist, R/o. Gohgaon Hade, Tal. Risod, Dist. Washim.
Represented by	:	Shri. T. K. Shaikh, Advocate for accused.

Part 'B'

(Para 44(ii) of Chapter VI of Criminal Manual)

Date of offence	:	04.04.2022
Date of FIR	:	05.04.2022
Date of Charge-sheet	:	27.05.2022
Date of framing of Charge	:	03.02.2023
Date of commencement of evidence	:	27.05.2024
Date on which judgment is reserved	:	--
Date of the Judgment	:	22.07.2026

Date of Sentencing order, if any	:	--
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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 Sec.428 Cr.P.C.
1.	Aanand @ Anil Madhav Hade	Dated 07.04. 2022	07.04. 2022	Section 354, 354B, 452, 504, 506 of the Indian Penal Code, 1860	Acquitted	--	00

JUDGMENT

(Delivered on: 22.07.2026)

The accused is facing trial for allegedly committing offences punishable under section 354, 354B, 452, 504, 506 of the Indian Penal Code (for short 'I.P.C.').

The case of prosecution in brief is as under,

2. The informant is resident of Gohgaon Hade, Tq. Risod Dist. Washim. He is having 3 daughters and one son. One of the daughter namely X age about 22 years (**the victim is referred as "X"**) is mentally retarded by birth and she cannot speak. On 04/04/2022 at 09:00 am, the informant went to Jalna for the purpose of exchange Sarees, on the same day at 10:00 pm, the informant returned to his home at Gohgaon Hade. On 05/04/2022 at about 08.00 AM, when the informant was present at his home, his wife, namely Mrs. Laxmibai Suresh Hade, told him that, yesterday on 04/04/2022, when she and her daughter, namely X were present at home. At about 01.30 pm, she left her daughter, namely X, at home and went to the house of Ratan Ashruji Hade, who lives in the village, for some work and returned home at

about 02.00 pm. When she opened the door of the house, she found accused Anil Madhav Hade, inside the house. The accused was removing X's clothes with bad intentions, molested her, and abused her and hugged her forcefully. She asked the accused "what he was doing with my daughter. He told her that "if she told anyone about this incident, he threatened to kill her and her daughter". The accused abused her and ran away from there. Then after the informant gave the report of the incident to Risod Police Station.

Investigation:

3. On the basis of information given by the informant, crime No. 0212/2022 was registered against the accused at Risod police station for offences punishable under section 354, 354-B, 452, 504, 506 of I.P.C., Police Head Constable Ratan Tulshiram Bavaskar conducted the investigation. After investigation, the I.O. placed the chargesheet against the accused for offences punishable under section 354, 354 B, 452, 504, 506 of IPC.

4. My learned predecessor had framed a charge of offence against the accused at Exh. 13 for offences punishable under section 354, 354 B, 452, 504, 506 of IPC. The accused pleaded not guilty and claimed to be tried. Hence, as per the provisions of section 242 of the Code of Criminal Procedure, the trial was commenced.

5. In support of the case, the prosecution examined 05 witnesses as mentioned above in the list provided with Part C. The prosecution evidence was closed by order below Exh.1, dated 05/08/2025, as the prosecution examined all the relevant witnesses.

6. For enabling the accused personally to explain circumstances and evidence against him, he was questioned on said evidence as per section 313(1)(b) of the Code of Criminal Procedure at Exh.36. The defence of the accused was that, his father had filed a complaint against the informant about Gharkul Scheme, and it was stayed by the authority due to the complaint of the father of the accused. The accused took the defence of previous enmity. Therefore, the informant has filed a false complaint against the accused and also of false implication and total denial.

7. I have heard learned assistant public prosecutor and learned advocate of the accused at length. In view of the case of the prosecution and Charge was framed against the accused, the following points arose for my determination, the findings on which, for reasons, I have recorded below,

<u>SR.NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the prosecution prove that accused assaulted or used criminal force to informant's daughter, intending to outrage her modesty and have and thereby committed an offence punishable under section 354 of Indian Penal Code ?	No.
2.	Whether the prosecution prove that, accused caused assaults or used criminal force to informant's daughter by attempted with intention of disrobing or compelling her to be naked and thereby committed an offence punishable under section 354 B of Indian Penal Code ?	No.

3. Whether the prosecution prove that, accused committed house tress passed by entering into the house of informant Suresh Hade, which is used as a human dwelling and having made preparation for causing hurt to the informant's daughter to put them in fear of hurt or of assault or of wrongful restraint and thereby committed an offence punishable under section **452** of Indian Penal Code ? **No.**
4. Whether the prosecution prove that, accused insulted the informant's wife and his daughter and thereby gave provocation to the informant's wife intending it to be likely that such provocation will cause them to break public peace or to commit any other offence and thereby committed an offence punishable under section **504** of Indian Penal Code ? **No.**
5. Whether the prosecution prove that, accused committed criminal intimidation by threatening informant's wife and daughter to cause injury to their person with intend to cause alarm to them and thereby committed an offence punishable under section **506** of Indian Penal Code ? **No.**
6. What order ? **Accused is acquitted.**

ARGUMENTS :

8. Learned A.P.P. submitted that evidence of the informant, and other witnesses is corroborative of each other. All 5 witnesses have supported the prosecution case. The informant has deposed as per the content of the FIR. Due to social factors, the FIR was lodged on the next day of the incident. The defence has failed to bring anything on record from the cross-examination of witnesses. The cross-examination is mainly on the point of previous enmity and bad character of the

informant. The chain of circumstantial evidence is complete. Prior enmity between the accused and informant is the only defence of the accused. All essential ingredients of the offence are satisfied. The victim is a mentally retarded person; therefore she has not been examined. The prosecution has proved their case beyond reasonable doubt. Hence, prayed for conviction of the accused. He relied on the following judgments:-

- 1) State v/s Pratap Hon'ble Delhi High Court (CRA.A. 254/2016)
- 2) Ramesh Jagtap V/s State of Maharashtra (2002 ALL MR (Cri) 120)
- 3) State of Maharashtra V/s Tulshiram Kamble (The Supreme Court Appeal (Cri) 85-87/2000).

9. Per contra, the learned advocate for the accused submitted that, the informant was at Jalna at the time of the alleged incident. The informant is a hearsay witness. There is material discrepancy in the exact time of the incident. There is delay in lodging FIR. The delay is not properly explained. The mentally challenged status of the victim is disputed. Statements of independent witnesses are not recorded by police. The statement of the eyewitness was recorded on the 3rd day of the incident. The present case is filed due to previous enmity between the accused and the informant. The statement of the victim is not recorded. All ingredients of the sections are not satisfied. There is no injury certificate on record of the victim. The bad character of the informant has been duly brought on record. He relied on the following judgments:-

- 1) Murugesan v/s The Inspector of Police, Hon'ble Madras High Court (CR A. No.117/2018)

- 2) Navin Baraiya v/s State of Maharashtra, Hon'ble Bombay High Court (CR Appeal 0406/2018)
- 3) Pema Bhutia v/s State of Sikkim, Hon'ble Sikkim High Court (CR Appeal 13/2021).

REASONS FOR THE FINDINGS

10. As it is the prudent rule of criminal jurisprudence and the right guaranteed to the accused under the Constitution of India, the innocence of the accused needs to be presumed. In order to prove the alleged charges against the accused, the entire burden is on the shoulder of the prosecution. It is also a settled rule that the prosecution has to stand on its own feet. The prosecution is also duty-bound to prove all charges framed against the accused by producing cogent, reliable, trustworthy and truthful evidence and to prove the charges beyond all reasonable doubts. Therefore, considering the aforesaid important points, the evidence produced on record by the prosecution needs to be appreciated very carefully and considering the provisions of law.

11. Before jumping to the evidence, it is imperative to advert to the essentials which the prosecution is required to prove. In **Vidhyadharan Vs. State of Kerala** ((2004) 1 SCC 215 : AIR 2004 SC 536) the Hon'ble Supreme Court held that,

“ The essential ingredients of the offence punishable under Section 354 IPC are as under :-

- (i) That the person assaulted must be a woman,
- (ii) That the accused must have used criminal force on her; and
- (iii) That the criminal force must have been used on the woman intending thereby to outrage her modesty.

12. The Hon'ble Supreme Court of India in the case of **Rupan Deol Bajaj v. Kanwar Pal Singh Gill**, (1995) 6 SCC 194 : 1995 SCC (Cri) 1059 at page 205 held that,

“14. Since the word ‘modesty’ has not been defined in the Penal Code, 1860 we may profitably look into its dictionary meaning. According to Shorter Oxford English Dictionary (3rd Edn.) modesty is the quality of being modest and in relation to woman means “womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct”. The word ‘modest’ in relation to woman is defined in the above dictionary as “decorous in manner and conduct; not forward or lewd; shamefast”. Webster's Third New International Dictionary of the English Language defines modesty as “freedom from coarseness, indelicacy or indecency; a regard for propriety in dress, speech or conduct”. In the Oxford English Dictionary (1933 Edn.) the meaning of the word ‘modesty’ is given as “womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct (in man or woman); reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions.” The ultimate test for ascertaining whether modesty has been outraged is whether the action of the offender is such as could be perceived as one which is capable of shocking the sense of decency of woman.”

13. To prove an offence of **assault or use of criminal force on a woman with the intent to disrobe her** punishable under Section 354-B of IPC the prosecution has to prove :

- (i) Assault or use of criminal force to women or abate such act
- (ii) With intention of disrobing or compel her to be naked.

14. In order to prove guilt of the accused, the prosecution has relied on oral testimony of five witnesses (PW-1 to 5) and report, FIR, Section 164 CRPC statement of the informant's wife (Exh.16,17,21 respectively), spot panchnama (Exh.33).

15. At the outset, it necessary to mention here that both the informant Suresh (PW-1) and his wife Laxmi (PW-2) are the parents of the victim X. Both the panch witnesses are relatives of the informant. The informant's wife Laxmi (PW-2) is the sole eyewitness to the incident. In such circumstances, her evidence has to be perused minutely.

AS TO POINT NO. 1 to 3

16. As point Nos.1 to 3 are being interlinked with each other, it would be proper to discuss them together to avoid repetition of the evidence.

17. It is the case of the prosecution that, on 04/04/2022 when the informant and her daughter were present at home. At about 01.30 pm, the informant's wife Laxmi left home and went to the house of Ratan Asruji Hade for some work and returned home at about 02.00 pm. At that time, when she opened the door of the house, she found

accused Anil Madhav Hade, inside the house. The accused was removing her daughter's clothes with bad intentions, molested her, abused her and hugged her forcefully. When the informant asked the accused “what he was doing with her daughter. The accused replied to her that, “If she told anyone about this incident, he threatened to kill her and her daughter”. The accused abused her and ran away from there.

Evidence of Informant Suresh Hade (PW. 1)

18. In this regard, it has come in the evidence of Suresh Hade (PW.1) (Informant) that, he knows the accused. The accused is from his village. The incident took place in his house, between 1 pm and 2 pm. On that day, he was at Jalna. He came back home at 10 pm from Jalna. On the second day of the incident, his wife Laxmi (PW.2) told him that, the accused came into their house and accused was removing our daughter X's clothes and molesting her. The accused was molesting his daughter, X. The accused told to his wife that, “If you tell anyone about the incident, he will kill her.” After that, he gave a report of the said incident to the police station Riosd. The report and FIR was shown to him he stated the contents to be true and correct and identified his signature on it, therefore it was marked as Exh.16 and 17 respectively.

19. Suresh Hade (PW.1) was cross-examined by the advocate for the accused in which he stated that, the distance between his village to the police station Risod, is about 18 km. There are no auto Rikshas available to reach Risod from his village. He is having his own motorcycle and he rides it by himself. Today he came to court on his motorcycle. He admitted that, it takes 30 min to 45 min to reach Risod

from his village by motorcycle. He further stated that, he did not give the ticket to the police during the investigation regarding his visit to Jalna on the day of the incident and also bill regarding his visit to Jalna for return of the Sarees. He admitted that he can see well with his own eyes. He stated that, he is having son namely Vaibhav and three daughters namely Ashwini, Kalyani, and X. The elder daughter Ashwini is married and she is living at Manglur Zanak. The distance between his village and the Manglur Zanak is about 20 km.

20. He further stated that his son is married and resides with him along with his wife. His son is an agriculturist and also a driver. He is having one child. The daughter Kalyani is taking education, and she is not mentally retarded. He was shown the list in Form No. 1 for surveying disabled persons in Gram Panchayat, Gohegaon Hade, in which the type of disability of his daughter X is shown as mentally retarded by erasing the visually impaired type of disability. He admitted that, his daughter X has completed her education up to class 2-3 standard. The school X used to attend was not a school of mentally retarded persons. He further stated that, about how the other children are shown to be disabled in the said list.

21. He further stated that, in the list of disabilities, his daughter's name is X at No. 579 and her type of disability is shown as blind. In the list of disabilities, his son's name is Vaibhav at No. 585, and his type of disability is shown as blind. In the old list, X's is not shown as mentally retarded.

22. He admitted that, he is having three brothers in total. Their names are Sheshrao, Muralidhar and Ratan. They live around his house. He is having good relationship with his brothers. He lives with his wife, son, daughter-in-law and his two daughters Kalyani and X. They were living together at the time of the incident. On the day of the incident, his daughter-in-law and son had gone to Tapovan, for darshan. While filing the report, he knew that on the day of the incident his son and daughter-in-law had gone to Tapovan for darshan. Dnyaneshwar Hade is his relative. Ganesh Damodhar Hade is not his relative, but he is from his village. He is having a good relationship with both of them.

23. He admitted that, he has not seen the incident by himself as he was at Jalna on the day of the incident. The accused's house is 400 feet away from his house. The accused drives the tractor. The accused parks the tractor in front of the door of his house. The accused does not own the place or a house where he parks the tractor. His house is far from where the accused parks the tractor. He denied that there was a dispute over the fact that the accused parks the tractor. He denied that a house under the Gharkul scheme house was allotted to him. He admitted that his name has appeared in the list under the said scheme. He admitted that the father of the accused (named Madhav Kundlik Hade) had objected to the said list with the Tahsil Office and the District Collector's Office. The said list has been stayed due to the objection. His son and two daughters are disabled, and he receives funds from the government of Rs. 1000 per month.

24. He further stated that, he did not give the police any documents during the investigation regarding the house where the incident took place belongs to him. He did not give the police any documents regarding the incident on his own. He has not given a report or taken bail before except in this case. He denied that he and the accused's father are not having good relations. He cannot state the property number of his house.

25. He admitted that, his daughter, X can see with her eyes, she cannot speak. She can hear. She is not speechless, she speaks a little bit. Today his wife has come with him to the court. He denied that they discussed the evidence in the case. He denied that he has filed a false case against the accused by presenting false documents, claiming that his two daughters and son are disabled when they are not. He denied that, he has filed this case against the accused because of his bad relation with the father of the accused. He denied that, the said incident did not happen. The rest of the cross-examination by the advocate for the accused was on point of how the informant has shown his son and daughters to be disabled person and taken the government funds for the same. The Suresh (PW.1) has denied all the adverse suggestions put forth by the advocate for accused.

Evidence of Informant's wife Laxmi Hade (PW. 2) (Eye Witness)

26. Laxmi Hade (PW.2) was examined at Exh. 20, who deposed that, she know the accused. The informant is his husband. The incident took place 2 years ago and took place in her house around 1 pm. On the day of the incident, she had gone to her brother-in-law Ratan Hade's house. Her daughter, Name X, was at home. She returned home

at 1:30 pm. The accused was present in her house. The accused had removed her daughter's clothes. She asked the accused, "How did you come?" After that, the accused threatened to kill her and he ran away. Her son had gone to Tapovan for darshan. Her husband had gone to Jalna. She did not narrated the incident to her husband in night on the day of incident. She narrated about the incident to her husband on next day in the morning at about 8 AM. Her husband had reported the incident to the police station. The police had recorded her statement regarding the incident. She also gave the statement under Section 164 of the The Code of Criminal Procedure before the court. She identified her signature and content to be true of her Section 164 of the The Code of Criminal Procedure statement. It was given Exh.21, and the envelope is at Exh.22. She identified the accused in court.

27. In her cross-examination by learned advocate for the accused, she stated that, she has completed her education up to 2nd standard. She was present with her husband at the time of giving report to the police station and her husband knew about this. She can speak well and shout loudly. She admitted that, her brother-in-law and other relatives have houses around her house. Her husband having good relations with these people and they come to their aid in times of trouble. She lives together with her husband, son, daughter-in-law and two daughters. They live together at the time of the incident and even today. Her and her husband's statements were recorded at the police station, Risod, not in their village. She meets to the police in the court before giving her statement under Section 164 IPC. She denied that the police asked her to give her statement.

28. She stated that, her daughter X, was wearing pink leggings and a chocolate-colored top at the time of the incident. She herself gave her daughter's clothes to the police. She cannot state the name of the policeman to whom she gave her daughter's clothes. She gave the said clothes on the day of the incident, at that time her husband was with her. She did not give the documents regarding her house to the police. There are many residential houses around her house and people were living there even at the time of the incident.

29. She admitted that, her daughter X, can see with her eyes and can make loud noises. It takes an hour by bike to reach Risod from her village. The accused was wearing a chocolate-colored shirt and black jeans at the time of the incident. The witness says that she does not remember what colour clothes the accused was wearing. Her daughter Kalyani was mentally retarded earlier but has become intelligent now. Her husband is not blind. Her son Vaibhav can see a little. Her husband knows all about this. Her husband knew that her daughter Kalyani was mentally retarded. They have taken funds from the government for her husband and son being blind and for the two daughters being mentally retarded. She admitted that the accused's father had filed an objection when they were allotted a house under the Gharkul scheme. The accused's father had objected to the Gharkul scheme because the house allotment stayed after the accused's father objected to the Tehsildar and the District Collector. They are angry about this with the father of the accused. They have 2 acres of land, and it is in her husband's name.

30. She was unable to state the reason why the facts that, “ I returned home at 1:30 pm. The accused was present at my house. The accused had removed my daughter's clothes. I asked him how he came. After that, the accused threatened to kill me and he ran away. My son had gone to Tapovan for darshan.” are not mentioned in her statement before police. She denied all the adverse suggestions put forth by the advocate for the accused.

Evidence of Panch Witness:-

31. Ganesh Hade (PW 3) was examined as a panch witness at Exh. 26, however, he did not support the prosecution. He denied that the spot panchnama was conducted in his presence. His signature was taken on the panchnama. He was shown the panchnama in cross-examination by learned APP. He admitted his signature on it but deposed that he does not know about its contents. During cross-examination by the advocate by the accused, the witness admitted that he does not know about the incident. He just signed the panchnama and he is having good relationship with the informant.

32. Dnyaneshwar Hade (PW.4) was examined as a panch witness at Exh. 28, however, he did not support the prosecution. He denied that the spot panchnama was conducted in his presence. His signature was taken on the panchnama. He was shown the panchnama in cross-examination by learned APP. He admitted his signature on it but deposed that he does not know about its contents. During cross-examination by the advocate by the accused , the witness admitted that he does not know about the incident. He just signed the panchnama and he is having good relation with the informant.

Evidence of Investigation officer:-

33. Ratan Bavaskar (PW 5), the investigation officer, was examined at Exh. 31, who deposed that, on 05.04.2022, he was working as a Naik Police at police station Risod. On that day, he was given an investigation of the case under Section 354, 354-B, 452, 504, 506 of the IPC. The investigation was handed over to him as per written order at Exh.16. The report of the incident, oral report and medical certificate, etc. were given to him for investigation. He went to the spot of the incident. He called two Panch for the panchnama. The summons was shown to him. He identified it with his signature and that of two Panchas, it was marked at Exh.32. He prepared the spot panchnama as shown by the Informant. The spot of the incident is the informant's residence house at Gohgaon Hade. The spot panchnama was shown to him; he identified his and the panchas ' signatures and its contents to be true and correct. It was marked at Exh.33. He recorded the statement of the witness as per their say.

34. He further deposed that, he has given a letter to the court for recording the statement in the court as per Section 164 Cr.P.C., The letter was shown to him he identified his signature and its contents to be true and correct. It was marked at Exh.34. He arrested the accused. He identified the accused in the court. He has filed the chargesheet on sufficient evidence against the accused.

35. In his cross-examination by the learned advocate for the accused, he stated that the distance from Gohgaon Hade to Risod Police

Station is approximately 18 km. It takes approximately 30 min to 45 min to reach Gohgaon Hade from Risod Police Station. He did not make any inquiry as to whether the informant had gone to Jalna on the day of the incident. He did not collect any documentary evidence during the investigation regarding the ownership of the house where the incident took place. He did not obtain any document from the Gram Panchayat office regarding the property number of the house where the incident took place. He did not make any inquiry from the shopkeeper as to whether the informant had gone to Jalna to return the sarees.

36. He has not recorded the statement of X (victim). He has not conducted any investigation to ascertain whether the informant's Suresh (PW.1) daughter X (victim) is mentally retarded or not. He cannot say anything about the fact that, Gohgaon Hade is a small village and when such an incident occurs, people gather in the village and discuss it. The informant's wife Laxmi (PW.2) had gone to her brother Ratan Hade's house at the time of the incident. He has not recorded the statement of the said Ratan Hade in that regard. He has not recorded the statements of the people living around the informant's Suresh (PW.1) house like police Patil, sarpanch, members, Tanta Mukti president etc. to verify the veracity of the incident. He has not recorded the statements of the informant's son, daughter-in-law and daughter.

37 He has not inquired whether X (victim) is mentally retarded or not and whether she is mentally retarded and is attending school. He denied that, the pink leggings and chocolate colored top worn by X on the day of the incident were given to him by the informant's wife Laxmi

(PW.2), in front of the informant on the day of the incident. He denied that, he recorded the statements of the informant Suresh (PW.1) and the informant's wife Laxmi (PW.2) at the police station instead of recording it at Gohgaon Hade. He stated that he has recorded the witness Laxmi's (PW.2) statement as per her say. She has not stated the facts that "I returned home at 1:30 pm. The accused was present at my house. The accused had removed my daughter's clothes. I asked him how he came. After that, the accused threatened to kill me and he ran away. My son had gone to Tapovan for darshan." to him at the time of recording of her statement. He denied the all the adverse suggestions put by the advocate for the accused.

38. Here, it seems from the discussed evidence that the two witnesses, namely Informant Suresh (PW.1) and his wife Laxmi (PW.2), were material witnesses of the prosecution case. Firstly, it is important to scrutinise the evidence of the Informant Suresh (PW.1). He deposed as per content of the FIR. It has come in evidence of the Suresh (PW.1) that, the incident has happened at about 1 PM. The Laxmi (PW.2), informant's wife, has narrated all the entire incident to him on the next day in the morning at about 08.00 am. Further, during cross-examination, Suresh (PW.1) informant admitted that he has not witnessed the incident by himself. The incident was narrated to him by his wife Laxmi (PW.2). Here it is pertinent to note that the Suresh (PW.1) informant is the hearsay witness. The hearsay evidence is not admissible, the fundamental principle underlying this rule is that oral evidence must be direct, as mandated by Section 60 of the Indian Evidence Act. This section requires that if evidence refers to a fact that could be seen, heard, or perceived by any other sense, it must be the

evidence of a witness who says they directly saw, heard, or perceived it. The hearsay evidence is admissible in exceptional cases. In the present case, the Suresh (PW.1) came to know about the incident through the Laxmi (PW.2), his wife. Therefore, his evidence is hearsay, and it is not admissible as to the extent of happening of the incident. However, his evidence is useful for the purpose of corroboration.

39. Laxmi (PW.2) is informant's wife and victim's mother. She is the eyewitness and the sole witness to the prosecution case. She, in her evidence, stated that the incident occurred at about 1.00 PM and she returned home at about 01.30 PM at that time she saw the accused has removed her daughter X's clothes and was molesting her. However, in her statement, according to the section 164 of Cr.PC at Exh.21, she stated that the incident occurred at 02.00 pm. There seems to be a difference in her own version about the time of the incident. Further, she has admitted that the victim X, can see and speak a little bit, also, she can shout loudly. Further, she has admitted that, her brother-in-law and other relatives are reside nearby her house. Here it is pertinent note that the Suresh (PW.1) and Laxmi (PW.2) are the parents of the victim X, and the IO has not recorded the statement of other independent witnesses of locality. Even though there are people living around the house of the informant and she also admitted it.

40. Further argued by the advocate for the accused that, Laxmi (PW.2) stated that the accused has removed the clothes of the victim X and the same has been handed over by her to the investigating officer. However, the investigating officer has denied the same. In evidence of the Laxmi (PW. 2), she stated that she has given the clothe of the victim

to the police in the presence of the her husband, Suresh (PW.1). However, the IO (PW. 5), denied the same. Furthermore, the Suresh (PW. 1) in his evidence has not stated anything about the fact that the Laxmi (PW.2) has given the victims cloths to the police in his presence. These are the contradictions in evidence of Suresh (PW.1), Laxmi (PW.2) and IO (PW.5) respect of material facts and which affect the prosecution case.

41. The Laxmi (PW.2) in her testimony before the court stated that, “ she returned home at 01.30 pm. The accused was present at her house. The accused had removed her daughter's clothes. She asked him how he came. After that, the accused threatened to kill her and he ran away. Her son had gone to Tapovan for darshan.” However, these facts are not mentioned in her statement before the police. The investigation officer (PW.5) also admitted that Laxmi (PW.2) has not narrated said facts as mentioned by her evidence before the Court. It shows that she has exaggerated her testimony before the Court in this regard. These are the additions in respect of material facts and which affect the prosecution case.

42. Here I would like to take recourse to the **Section 134 of the Indian Evidence Act**, which states that, “ *No particular number of witnesses shall in any case be required for the proof of any fact.*” Here, the informant is a hearsay witness, and the only eyewitness to the incident is the Laxmi (PW.2) informants' wife. According to the Section 134, no particular number of the witness is required to prove any fact. That means the quality of the evidence matters and not the number. Here, in the present case, on perusal of the evidence of the Laxmi

(PW.2), it appears that there are material contradictions in her evidence. Therefore, her sole testimony cannot be sole relied upon for the purpose of proving the prosecution case.

Spot Panch :-

43. The Ganesh (PW.3) and Dnyaneshwar (PW.4) the Spot panch to the spot panchnama, have not supported the case of the prosecution. They have stated that, they have only signed the spot panchnama and it was not prepared in their presence. The prosecution has examined the IO (PW.5) and proved the Spot panchnama at Exh.34. The prosecution has to prove the spot panchnama through the panch witness, and if they are not supporting the case of the prosecution, then through the investigation officer. In the present case, the IO (PW.5) has duly proved the spot panchmana. However, here it is pertinent to note that the Suresh (PW.1) and Laxmi (PW.2) in their evidence admitted that the Spot pancha are their relatives and they are having good relations with the informant. Therefore, looking into the fact of the present case, it seems that even though the panch witnesses are having good relations with the informant, they are not supporting the prosecution. In such circumstances, it can not be said that the prosecution has duly proved the spot panchnama beyond reasonable doubt .

Investigation :-

44. In the evidence, the investigation officer he has admitted that, he did not make any inquiry as to whether the informant had gone to Jalna on the day of the incident. He did not collect any documentary evidence during the investigation regarding the

ownership of the house where the incident took place. He did not obtain any document from the Gram Panchayat office regarding the property number of the house where the incident took place. He did not make any inquiry from the shopkeeper as to whether the informant had gone to Jalna to return the sarees. He has not recorded the statement of X (victim). He has not conducted any investigation to ascertain whether the informant's daughter X (victim) is mentally retarded or not. He has not recorded the statement of the Ratan Hade. He has not recorded the statements of the people living around the informant. He has not recorded the statements of the informant's son, daughter-in-law and daughter.

45. From the above it seems that there is negligence on the part of the investigation officer in the investigation. However, it is settle principle of law that the lacuna in the investigation can not benefit the accused. The lacunae in the investigation should be discussed carefully. The accused cannot automatically be acquitted merely because the investigation is defective. However, where the defective investigation results in failure to prove essential ingredients of the offence or creates serious doubt about the prosecution case, the accused is entitled to the benefit of doubt.

Victim not examined:-

46. It was argued by the advocate for the accused that, the victim X was not examined by the prosecution. The Ld. APP submitted that, as the victim X was mentally retarded and was not listed in the witness list therefore, she was not examined. In the present case, the most important witness to the prosecution is the victim X herself.

However, she has not been examined by the prosecution. The IO (PW.5), in his evidence, has admitted that he has neither inquired about the mental health of the victim, nor has he obtained any medical certificate for the same. Furthermore, the Suresh (PW.1) and Laxmi (PW.2), in their evidence, admitted that the victim can see from her eyes, she has studied upto 2-3 standard in school, not belonging to the mentally retarded persons, she can shout loudly, she can speak a little bit. Here it is pertinent to note that the IO (PW.5) has not recorded her statement even though she is the most important witness to the incident. Further, there is no medical document on record exhibited by the prosecution to prove the fact that, the witness is unable to testify.

47. The **Section 114 of the Indian Evidence Act** which provides as under:-

“ All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind. Explanation to the Section says that a lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.”

48. Therefore, the competency of a witness can be ascertained by questioning him to find out the capability to understand the occurrence witnessed and to speak the truth before the court. In criminal proceedings, a person of any age is competent to give

evidence if he can (i) understand questions put as a witness; and (ii) give such answers to the questions that can be understood.

49. Therefore, a person of any age or lunatic is competent to testify if he is able to understand the nature of the question put to him and give rational answer to those questions. Unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

50. The Ld. Advocate for the accused has placed his reliance on the case of **Murugesan v/s Inspector of Police, Madras High Court. (Cri. A(MD) No.117 of 2018)**, wherein the Hon'ble High Court held that, "*the conviction can not be based on sole testimony of the informant. Further, the benefit of doubt has to be given to the accused in case of non-examination of the victim.*" Further placed reliance on the case of **Navin Baraiye v/s State of Maharashtra ((2018)06 BOM CK 0087)** wherein the Hon'ble High Court held that non-examination of the victim is fatal to the prosecution case.

51. In the present case, the victim was neither brought before the court to test whether she is competent or not. Neither the IO (PW.5) nor the prosecution has brought on record any medical document to show that she is unable to testify due to lunacy. Moreover, the Suresh (PW.1) and Laxmi (PW.2) has admitted that, the victim X, has studied 2-3rd standard and can speak a little and shout louder. Moreover, the FIR at EXh.17 states that her age at the time of the incident was 22 years. In such circumstances, the non-examination of the victim is fatal to the prosecution case.

Delay in lodging FIR:-

52. There is no doubt in my mind, FIR is an extremely vital and valuable piece of evidence for appreciation of allegations against the accused. The lodging of FIR at a belated stage would not only get bereft of the advantage of spontaneity, but danger creeps in the introduction of a coloured version, exaggeration of the circumstances or a concocted story as a result of due deliberation and consultation. Taking into account the dictum of the cited supra cases, let us see whether there is any delay in the case in hand. And if there is any delay, whether the prosecution has failed to explain the same, and if not, then whether it seems fatal to the prosecution's case ?

53. I have minutely perused FIR (Exh.17). It says that the incident happened at around 2.00 to 2.15 p.m, on 04/04/2022. Perusal of FIR (Exh.17), it appears that it is lodged in the police station at around 05.49 p.m. on 05/04/2022, near about after one day of the happening of the alleged incident. In the present matter, the informant Suresh (PW.1) deposed that on the date of the incident, he was at Jalna and he returned home at night at 10.00 pm and his wife Laxmi (PW.2) remained silent throughout the night and narrated the incident to him in the morning at 8 AM on the next day of the incident. During cross-examination of the informant Suresh (PW.1) and his wife Laxmi (PW.2), it came on record that he is having motor-cycle, the distance between his village and the Risod police station is about 18 km, and it takes 30 to 35 min to reach by motorcycle. Further, the investigating officer in his evidence stated that the distance between the Risod Police Station and the village of the informant is 18 km and it takes 30 to 45 min. Here it is pertinent to note that the FIR is lodged in the evening at

about 05.49 p.m. on 05/04/2022, even though the Laxmi (PW.2) narrated the incident to the informant Suresh (PW.1) in the morning at 08.00 am on 05/04/2022.

54. The reason given by the prosecution for delay in lodging FIR was of social pressure. The Ld. APP also argued that, the delay is caused due to social pressure. Further, it was the argument of Ld. APP that delay in lodging FIR is not fatal to the prosecution case. In support of his contention, he relied on the case of **Ramesh Tukaram Jagtap v/s State of Maharashtra (2002 ALL MR(Cri)120)** and **State NCT Delhi v/s Pratap Sing, (CRL A 254/20166)**, in this case hon'ble Delhi High Court held that,

“As regards the submission of learned counsel for the respondent/accused that there is delay in lodging the FIR, this submission again is devoid of merits. The delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same solely on the ground of delay in lodging the first information report. Delay has the effect of putting the Court on its guard to search if any explanation has been offered for the delay, and if offered, whether it is satisfactory or not. If the prosecution fails to satisfactorily explain the delay and there is possibility of embellishment in the prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the delay is explained to the satisfaction of the court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case.”

55. The Hon'ble Bombay High Court in the case of **Ashok Somnath Ghodke Vs. State of Maharashtra & Ors. Reported in 2013 SCC OnLine Bom 2243**, held that –

“complaints by women in respect of the offences against them are not mandatorily required to be filed within hours. The woman would have certainly thought many times before she lodged the complaint.”

56. In the present case, taking into consideration the facts and circumstances, of the case, in my view, the reason given for the delay is not satisfactory as there was ample time to report the incident. Although delay in reporting sexual offences is not invariably fatal, the surrounding circumstances assume significance where the prosecution case is otherwise doubtful. It cannot be said that one day delay in reporting the incident to the police is fatal to the prosecution case.

Previous Enmity:-

57. It was one of the defence of the accused was that there was previous enmity between the informant Suresh (PW.1) and the father of the accused. It was submitted that, the father of the accused had filed an objection in respect of the allocation of Gharkul Scheme to the informant and the authority had stayed the allocation of house to the informant. Therefore, the informant Suresh (PW.1) has filed the present false complaint against the accused. The Ld. APP has argued that previous enmity cannot be a ground for the acquittal. He has placed his reliance on the case of **State of Maharashtra vs Tulshiram Bhanudas Kamble (AIR 2007 SUPREME COURT 3042)** wherein the Hon'ble Court Held that, “ 33. As regards enmity, it is well known that

enmity is a double-edged weapon. It can be a ground for false implication, but it can also be a ground for correct implication.”

58. In the present case, the Suresh (PW.1) informant and Laxmi (PW.2) his wife have admitted that the father of the accused had filed an objection in respect of the allocation of Gharkul Scheme to the informant and the authority had stayed the allocation of house to the informant. However, as held in the case of **Tukaram Kamble (Supra)**, the previous enmity can be a ground for implication and also correct implication. The alleged offence is a sexual offence against the victim who is mentally retarded. In my view, in such a kind of offence, it can not be said that the offence is registered just because of previous enmity. Therefore, there is no merit in the argument of the advocate for the accused.

59. Hence, considering the above discussion it is clear that offence under Section 354, 354-B, 452 of Indian Penal Code can not be said to have been proved against the accused beyond reasonable doubt. Hence, I answer point No.1 to 3 in the negative.

AS TO POINT NO.4:

60. It is also the case of the prosecution that the accused has abused the informant. However, upon going through the evidence of the informant's wife at Exh.20 and other material evidence on record, there is no mention of specific words of abuse allegedly uttered by the accused towards the informant. Hence, in the absence of such evidence, the offence punishable under section 504 of I.P.C. cannot be said to

have been proved against the accused beyond all reasonable doubts. Hence, I answer point No.4 in the negative.

AS TO POINT NO.5:-

61. As regards the offence punishable under Section 506 of the I.P.C., upon going through the evidence of the informant's wife Laxmi (PW.2) at Exh.20 and other material evidence on record, it has come in evidence of the informant Suresh (PW.1) that the accused has threatened her to cause her death. However, there is no other corroborative evidence to support the evidence of the informant's wife Laxmi (PW.2) on this point further, the accused has brought on record the contradiction in the statement of Laxmi (PW.2) given to the police and given before court. In the statement before the police, she stated that, the accused has threatened to cause the victim's and her death; however, in the evidence before court, she has stated that, accused threatened to cause her death only. Therefore, as discussed above, her sole testimony is not sufficient to prove the offence under section 506 of IPC in the absence of other corroborative evidence. Hence, in the absence of such evidence, the offence punishable under section 506 of I.P.C. cannot be said to have been proved against the accused beyond all reasonable doubts. Hence, I answer point No.5 in the negative.

AS TO POINT NO.6:-

62. In conclusion, it is clear from the above discussed evidence that, the star witness to the prosecution case is the Laxmi (PW.2), the wife of the informant (eye witness). She, in her evidence, has stated according to the content of the FIR, however, there are material contradictions in her evidence. The Suresh (PW.1) is a

hearsay witness therefore, his testimony is not useful to the prosecution. Further, Ganesh (PW.3) and Dnyaneshwar (PW.4) both the spot panch to the spot panchnama have not supported the prosecution. Further, the investigating officer (PW.5) was negligent at the time of the investigation. The independent witnesses were available. Further, the victim X has not been examined. There seems to be a delay in lodging the FIR, even though it is not fatal to the prosecution case. There is previous enmity brought on record by the accused. Therefore, taking into these facts, it is clear that there are material loopholes as discussed aforesaid which do not prove the case of the prosecution beyond reasonable doubt. Further, the prosecution has failed to prove the essential ingredients to constitute the alleged offence. Considering the evidence on record, I am of the view that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. Therefore, the accused is liable to be acquitted. In view of my findings to Point Nos. 1 to 5, I hold that the prosecution has not proved the charge against the accused for offences punishable under section 354, 354-B, 452, 504, 506 of I.P.C. Therefore, in answer to point No. 6, I pass the following order:-

ORDER

- a) The accused, namely Aanand @ Anil Madhav Hade, is acquitted of the offences punishable under section 354, 354B, 452, 504, 506 of the Indian Penal Code vide Sec.255(1) of the Code of Criminal Procedure, 1973.
- b) Bail bonds of the accused stands cancelled. He is set at liberty.

- c) Accused to execute a personal bond of Rs.15,000/- with surety of like amount as per of section 437-A of the Code of Criminal Procedure.

(Pronounced in open Court)

Sd/-

Place : Risod

Date : 22.07.2026

(**Shri. Kiran D. Lukde**)
Judicial Magistrate, First Class,
(Court No. 3), Risod.

Part 'C'

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

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE
P.W. 1 -Exh.15	Suresh Ashruji Hade,	Informant
P.W. 2 -Exh.20	Laxmi Suresh Hade,	Eye Witness
P.W. 3 -Exh.26	Ganesh Damodar Hade,	Spot Panch witness
P.W. 4 -Exh.28	Dnyaneshwar Narayan Hade,	Spot Panch witness
P.W. 5 -Exh.31	Ratan Tulshiram Bavskar	Investigating Officer

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
DW	----	----

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
CW	----	-----

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

Sr. No.	Exhibit Number	Description	Proved by/Attested by
1.	16	Report	PW-1
1.	17	FIR	PW-1
1.	21	164 Statement of eye witness	PW-2
2.	22	164 Statement of eye witness (envelop)	PW-2
3.	33	Spot panchnama	PW-5

B. Defence :

Sr.No.	Exhibit Number	Description
1.	19	List of documents

C. Court Exhibits :

Sr.No.	Exhibit Number	Description
1.	13	Charge
1.	36	Code of Criminal Procedure Section 313 statment of accused

D. Material Objects :

Sr.No.	Exhibit Number	Description
1.	---	---

Sd/-

Place : Risod
Date : 22.07.2026

(**Shri. Kiran D. Lukde**)
Judicial Magistrate, First Class,
(Court No. 3), Risod.

C E R T I F I C A T E

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

Name of the stenographer : Harshali A. Uchade (Grade-III)
Court Name : 3rd Jt. C.J.J.D. & J.M.F.C., Risod
Date : 22.07.2026
Judgment/Order signed by
Presiding Officer : 22.07.2026
Judgment/Order Uploaded on : 22.07.2026