

MHYA010002492026



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Decided on : 12/06/2026  
Duration : 00Y 04M 13D

**Exh. No. 11**

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, YAVATMAL,**  
**DISTRICT YAVATMAL.**

(Presided over by S.U. Baghele)

**Criminal Appeal No.11/2026**

Rajendra Vithoba Raut,  
Aged about 40 years,  
Occupation : Labour,  
R/o : Kurha (Talani), Tq. Ghatanji,  
District Yavatmal.

**.....Appellant/  
Original accused**

**..Vs.**

The State of Maharashtra,  
Through Police-station  
Ghatanji, Tq. Ghatanji,  
District Yavatmal.

**.....Respondent/  
Original prosecution.**

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|------------------------------------|---|----------------------|
| Learned advocate for the appellant | : | Shri Rajesh Chavhan. |
| Learned PP. for the respondent     | : | Sau. N.N. Dave.      |

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**ORAL JUDGMENT**  
**[Delivered on 12/06/2026]**

1. This appeal came to be preferred against the judgment and order, delivered and passed in Regular Criminal Case No. 546/2021, on 14.01.2026, by the learned Judicial Magistrate, First Class, Ghatanji, District Yavatmal, whereby the learned Magistrate convicted the appellant/original accused of the offences punishable under Sections 354, 452 and 506 of the Indian Penal Code, 1860 (Hereinafter referred to as 'the IPC' for sake of brevity), and sentenced him to undergo rigorous imprisonment for a term of two years, apart from the sentence of fine of Rs. 3,000/-, together with a default clause, for the offence punishable under Section 354 of IPC. He further sentenced to him undergo simple imprisonment for a term of six months, apart from the sentence of fine of Rs. 1,000/-, together with a default clause, for the offence punishable under Section 452 of IPC. He further sentenced to him undergo simple imprisonment for a term of three months, apart from the sentence of fine of Rs. 1,000/-, together with a default clause, for the offence punishable under Section 506 of IPC. The parties herein are being referred to hereinafter, as per their original designations before the learned trial court, as 'the prosecution' or 'the accused', as the case may be, for the sake of convenience. With a view to suppress the identity of the victim, the names of the victim / informant and her parents are being suppressed herein, and they are being referred to hereinafter as 'the victim' or 'the informant', 'PW2 father', and 'PW5 mother', as the case may be.

2. The factual matrix, which has not been disputed to, is to the extent that the accused and the victim are the residents of village Kurha, Tq. Ghatanji, District Yavatmal, and are known to each other.

3. According to the prosecution, the victim was aged about 19 years in the year 2021. On the fateful day of incident, i.e. on 09.10.2021, around 09.00 a.m., the parents of the victim had been to their agricultural land. The brother of the victim had also gone for performing labour work. Consequently, PW No. 1 Victim was present alone at her residence. Around 1.00 p.m, the accused approached the house of the victim, on the pretext of charging his mobile handset. The victim placed his mobile handset for charging, accordingly, and asked the accused to return back at 5.00 pm, with a view to collect his handset. However, the accused returned back to the house of the victim at 1.30 p.m. itself. On arrival, he caught hold the hand of the victim and twisted the same, and asked her to allow him to kiss her. Not only that, the accused embraced the victim, thereby outraging her modesty. The victim attempted to rescue herself from the clutches of the accused. However, the accused tore her clothes and banged her on a table. Thereafter, the accused intimidated to kill the victim, in the case of discloser of the incident to any other person, and he left therefrom. The victim dialed her parents, namely PW 2 father and PW No. 5 mother, thereby apprising them of the occurrence. Her parents rushed back to home, whereafter, the law was set into motion, by loading a report and an FIR with police station Ghatangi. On the strength of the said report, an offence came to be registered against the accused, bearing crime No. 492/2021, for the offences punishable under sections 354, 452, 323 and 506 of the IPC.

4. PSI Sushil Sharma investigated into the crime. He arrested the accused. He prepared a spot panchanama in the presence of panchas. He seized the torn kurta of the victim in the presence of panchas, vide a seizure panchanama. He recorded the statements of witnesses. He got the statement of the victim recorded by a Judicial Magistrate. Upon the completion of the investigation, the accused came to be charge-sheeted before the court of JMFC, Ghatanji, for the offences punishable under sections 354, 452, 323 and 506 of the IPC. Charge came to be framed against the accused for the offences punishable under sections 354, 452, 323 and 506 of the IPC. The contents therein came to be read over and explained to the accused in vernacular, whereupon he pleaded to be not guilty, and preferred to face the trial.

5. The defence taken by the accused, in the suggestions put to the prosecution witnesses and the statement of the accused, recorded under Section 313 of the Code of Criminal Procedure, 1973, (Hereinafter referred to as 'the Cr.P.C.' for short) was that of total denial. It was his specific defence that prior to 10 to 15 days of the incident, quarrel took place between his mother on one side and the victim and her mother on the other side, on account of drainage water. Thereafter, the mother of the accused died. As the accused used to repeatedly utter that his mother died because of them, he came to falsely implicated.

6. Upon considering the respective contentions of the parties, the oral and the documentary evidence, and upon hearing the arguments advanced, the learned trial court convicted and sentenced the accused, as mentioned hereinbefore, vide the impugned judgment

and order, which is impugned in this appeal, *inter alia* on the grounds that the learned trial court failed to appreciate the facts, the evidence and the legal provisions, in proper perspective.

7. Looking to the contrary contentions, the evidence led and the arguments advanced, on behalf of both the parties, the following points cropped up for my determination, and I record my findings thereon, with the reasons to follow thereunder.

| <u>Sr. No.</u> | <u>Points</u>                                                                                                                                                                                       | <u>Findings</u>                                                                                |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| (1)            | Whether the prosecution proved that the accused assaulted or used criminal force to a woman, intending to outrage her modesty or knowing it to be likely that he will thereby outrage her modesty ? | In the affirmative.                                                                            |
| (2)            | Whether the prosecution proved that the accused committed house trespass, by making preparation for causing hurt, assault or wrongful restraint ?                                                   | The offence punishable under Section 451 of the IPC is proved, instead of Section 452 thereof. |
| (3)            | Whether the prosecution proved that the accused committed criminal intimidation, by threatening the victim to cause death, with intent to cause alarm to her ?                                      | In the affirmative.                                                                            |
| (4)            | Whether the impugned judgment and order warrants any interference ?                                                                                                                                 | Partly in the affirmative.                                                                     |
| (5)            | What order?                                                                                                                                                                                         | As per the final order                                                                         |

**: REASONS :****AS TO THE POINT NOS.1 TO 5 :-**

8. Heard Shri Chavhan, the learned counsel for the appellant/original accused, and Sau. Dave, the learned P.P. for the respondent/original prosecution.

9. It is submitted by Shri. Chavhan, the learned counsel for the appellant/original accused, that PW2 and PW5 are hearsay witnesses. The inordinate delay of three hours, in the lodging of the FIR, is not explained. Panchas did not prove spot panchanama and seizure panchanama. There is no clear, cogent and reliable evidence to establish intention or knowledge to outrage modesty. No proper reasons are given in the impugned judgment. As there was no criminal force, the accused came to be acquitted of the offence punishable under Section 323 of the IPC. As per PW1 victim, neighbors can hear, if any incident occurs, but no independent witness was examined by the prosecution for corroboration, nor the statements of neighbors are recorded by the IO. Hence, the happening of the incident is doubtful. The house of the victim is located in a thick locality and the alleged incident occurred during broad day light, due to which, it is improbable that none would come to know about the incident. There is no mention in the report Exh. 14 that shouts were raised by the victim. The ingredients of Section 354 of the IPC are not proved. The enmity between the two families is not considered. Contradictions and omissions are also not considered. It is unsafe to rely upon the uncorroborated testimony of the victim. There is no medical evidence to prove the criminal force. The prosecution failed to prove its case beyond reasonable doubt, due to which, the accused may be acquitted.

10. *Per contra*, it is submitted by the learned PP for the respondent/original prosecution, that the evidence of the victim is sufficient, without corroboration. There are no contradictions and omissions on the record. The delay in the lodging of the FIR is explained in the cross-examination. There is no document, in respect of enmity, on the record. Panchanamas are proved by the IO. Evidence is properly appreciated by the learned trial Court. The accused came to be convicted rightly, due to which, the appeal may be dismissed.

11. Now, coming to the evidence. PW No. 3 Gajanan Jahande and PW No. 4 Sachin Koyare are the spot cum seizure panchas. PW. No. 3 Gajanan Chahande testified merely to the extent that the contents of the spot and the seizure panchanamas Exhs. 20 and 21, respectively, are correct. However, he admitted in his cross-examination that the contents in the panchanamas were taken down by the police, as per their wish, and that, he signed thereon, without going through the contents therein. Thus, virtually, he did not support the prosecution.

12. PW. No.4 Sachin Koyare also testified in his deposition that the contents of the panchanamas Exh. 20 and 21 are true and correct, and that, he signed thereon, by going through the contents therein. However, again, he gave an admission in his cross-examination that he was not aware of the contents of the documents signed by him. Thus, he, too, did not support the prosecution.

13. PW No. 6 PSI Sushil Sharma testified that he prepared the spot panchanama Exh. 20, after the scene of occurrence was shown by the victim. He further stated about the seizure of the torn kurta of the

victim, bearing object No. 1, vide the seizure panchanama Exh. 21. He denied all the relevant adverse suggestions put to him in the cross-examination, in relation thereto, thereby rendering his testimony to be unshattered, as to the material particulars deposed to by him. Thus, although the panch witnesses did not support the prosecution, the investigating officer proved the factum of preparation of the spot panchanama, as well as the factum of seizure of the torn kurta of the victim.

14. PW No. 1 victim is the star witness, in this case, on the strength of whose sole testimony, the learned trial court appears to have convicted the accused. She deposed in her examination in chief that on the fateful day of the incident, around 1.00 p.m., when her parents and the brother were not present at home and she was present alone, the accused approached her house at 1.00 p.m.. The accused asked her to charge his mobile handset, whereupon she kept his handset on charging and asked him to return back at 5.00 p.m. However, the accused returned back at 1.30 p.m. The accused twisted the hand of the victim and asked her to allow him to kiss her. The accused embraced her. The victim attempted to rescue herself from his clutches. At that time, the accused tore her clothes. Thereafter, the accused banged her on a table. The victim was attempting to rescue herself and was raising shouts. Thereafter, the accused left her house, by carrying the mobile handset. While leaving, the accused intimidated the victim to kill her, in the case of disclosure of the incident to any person. The victim apprised her parents of the incident on phone. Her parents returned back to home. Thereafter, the report Exh. 14 and the FIR Exh. 15 came to be lodged. She identified



the seized clothe, bearing material object No. 1, to be her clothe.

She admitted in her cross-examination that her house is surrounded by other houses. She admitted that in the case of any hue and cry, her neighbors can know about the same. She stated that her parents were working at a distance 3 km from her residence, and it takes more than an hour for them to reach home. They reached home between 2.00 to 2.30 p.m.. Ghatanji police station was situated at the distance of 20 km from her house. She admitted that it takes one hour for reaching the police station. She could not assign any reason as to why it is missing in her report Exh. 14 that she had shouted. She denied all the relevant adverse suggestions put to her in cross-examination, in consonance with the defence taken by the accused.

15. Upon the perusal of the testimony of PW No. 1 Victim, it can be seen that the reasons for the so called delay in the lodging of the FIR have very well been elicited from her, in her cross-examination. Even otherwise, the alleged delay in the lodging of the FIR is less than four hours, which cannot *sensui stricto* be said to be any delay, more particularly, in relation to the offence of sexual assault. *Per contra*, the FIR appears have been lodged very promptly, notwithstanding the fact that the parents of the victim were at the walking distance of more than one hour and although the police station was also situated at the distance, requiring more than one hour to approach over there. Hence, the submissions in respect of the alleged delay are required to be brushed aside, at the threshold.

16. It is seen from the testimony of PW No. 1 victim that she deposed in a clear and convincing manner. Her testimony was natural, which, certainly, inspires the confidence of this court. Her testimony

remained to be unshaken in her cross-examination, as to all the material particulars, deposed to by her. Though it is sought to be impressed upon on behalf of the accused that the neighbors were bound to know about the incident, the state of mind of a girl, aged about 19 years only, has to be understood in a proper perspective, with a view to understand, as to how she would react in the scenario, she was forced to undergo. The accused appears to be aged about 40 years at the time of the occurrence. A tender aged girl, who was barely 19 years old, was not expected to raise alarm, to such an extent, as to warrant help from her neighbors, more particularly, when a known person, who was of her double age was outraging her modesty, in the manner deposed to by her. Had it, perhaps, been an attempt to rape, perhaps, she could have been expected to raise hue and cry, as it can be said to be an extreme level of her tolerance. However, in the factual scenario sought to be put forth in the case at hand, the victim was not always expected to raise an alarm, thereby alerting her neighbors of the occurrence, for the simple reason that a tender aged girl cannot be expected to unveil her ordeal, at the cost of her own honour and dignity, unless the same reaches to the extreme level of her tolerance. In the backdrop of these observations, I am not in agreement with the contrary submissions made by the learned counsel of the appellant, in that regard.

17. Now, appreciating the testimony of the victim, in the light of the defence taken by the accused. The accused came up with the defence that his mother died, after a quarrel *inter se* his mother on one side and the victim and her mother on the other side took place, whereafter the accused used to tell them that his mother died because

of them, which ultimately resulted into implicating the accused falsely in this case.

18. Merely because one is criticized and held to be responsible for the causing of death, one may not think of setting the law into motion, by knowing the doors of police station, more particularly, in respect of an offence of outraging of modesty, at the cost of one's own honour and dignity. Thus, the defence taken by the accused does not at all appear to be probable, even in the absence of the clear and convincing testimony of the victim of the offence. There is absolutely no reasonable cause for the victim to implicate the accused falsely, more particularly, in relation to the sexual offence. Although an omission, as regards the raising of an alarm by the victim, is sought to be impressed upon, the same is not of much importance, as it does not go to root of the case.

19. It is no more *res integra* that a single testimony is sufficient to warrant conviction, if the same is clear and convincing, thereby inspiring the confidence of the court, more particularly, in the sexual offences, wherein any other eye witnesses can hardly be expected. The learned trial Court appears to have observed properly that the testimony of victim alone can be enough to prove the guilt of the accused, depending upon its quality. I am in agreement with the observation made by the learned trial court that the victim was not expected to put her character to stake, by making the accusation of outraging of her modesty. The learned trial court appears to have come to the proper conclusion that the defence taken by the accused was not probable.

20. PW No. 2 father corroborated the testimony of the victim, through to a limited extent. He testified that on the fateful day of the incident, around 1.00 p.m., when the victim was alone at home, she made a phone call to him and apprised him of the occurrence. He further stated about the lodging of the report with the police. His testimony is unshattered in the cross-examination, as he denied the relevant adverse suggestions, as put to him in his cross-examination. PW No. 5 mother also corroborated the duo, by testifying that the victim was alone at home, and that, a phone call was made by her to her father, for unveiling the incident. Thereafter, the report was lodged with the police station. She, too, denied all the relevant adverse suggestions put to her in the cross-examination.

21. There is absolutely no substance in the submission made by Shri Chavhan, the learned counsel for the appellant, that there is no clear, cogent and reliable evidence to establish the intention or knowledge to outrage her modesty. There is no substance in his next submission that no proper reasons are recorded for conviction. There is no substance in his next submission that the accused came to be acquitted of the offence punishable under Section 323 of the IPC, as no criminal force could be proved. On the contrary, a mere criminal force is not required for the offence punishable under Section 323 of the IPC, but it is necessary to establish bodily pain, etc. There is no substance in his next submission that contradictions and omissions are not considered. On the contrary it is seen that no contradictions, nor omissions were sought to be proved through the investigating officer. There is no substance in his next submission that there should have been medical evidence to prove the use of criminal force, for the

simple reason that a mere use of criminal force cannot be noticed in the medical examination, unless there is any apparent injury. There is no substance in his next submission that the alleged enmity between the two families is not considered. On the contrary, the learned trial court appears to have considered the defence taken, and found the same to be improbable.

22. I am in agreement with the submission made by Smt. Dave, the learned PP, that the testimony of the victim is sufficient, without any corroboration, and that, the evidence on the record is properly appreciated by the learned trial court.

23. Upon the consideration of the evidence on the record, it is clearly seen that the accused used criminal force to the victim, solely with the intention to outrage her modesty, which is an offence punishable under Section 354 of the IPC. He is seen to have committed house trespass, in order to the committing of the offence of outraging of modesty, which is punishable with imprisonment. However, there is no allegation that the accused committed the house trespass, after preparation for causing hurt, etc. Thus, the accused is seen to have committed the offence punishable under Section 451 of the IPC, instead of Section 452 of the IPC, for which the accused has been convicted by the learned trial court. The accused is further seen to have committed the offence of criminal intimidation, punishable under Section 506 of the IPC.

24. In the light of the foregoing observations, I do not find any error, having been committed by learned trial court, in convicting the accused, save as otherwise observed, hereinabove.

25. Considering the nature and the gravity of the offences in question, the sentences of imprisonment and fine, as directed by the learned trial Court, do not warrant any interference by this court. In the place of Section 452 of the IPC, the accused deserves to be convicted of the offence punishable under Section 451 of the IPC. However, the quantum of sentence therefor does not warrant to be reduced, than the quantum awarded for the offence punishable under Section 452 of the IPC by the learned trial court.

26. In the light of the foregoing observations, I answered the point 2 accordingly, the point Nos.1 and 3 in the affirmative, and the point No. 4 partly in the affirmative, and I proceed to pass the following order.

**: ORDER :**

- 1] The appeal is hereby partly allowed.
- 2] The accused is hereby convicted of the offence punishable under Section 451 of the Indian Penal Code, instead of Section 452 thereof. The sentence of imprisonment and fine awarded by the learned trial court for the offence punishable under Section 452 of the IPC shall be deemed to be the sentence of imprisonment and fine for the offence punishable under Section 451 of the Indian Penal Code. The rest of the judgment and order passed by the learned trial court is hereby confirmed.
- 3] The bail bonds of the appellant/accused are hereby cancelled, and he is hereby taken into custody forthwith, to serve the sentence.

- 4] An authenticated copy of this judgment be provided to the appellant / original accused, free of cost, immediately.
- 5] The record and proceedings be sent back, together with an authenticated copy of this judgment.

Date: 12/06/2026  
Place: Yavatmal.

(S.U. Baghele)  
Additional Sessions Judge,  
Yavatmal.