

1 S.C.C.No.684/2018  
State..S..Vijay Ade

|                                                                                                       |                             |
|-------------------------------------------------------------------------------------------------------|-----------------------------|
| MHYA100005932018<br> | Presented on :- 14/06/2018  |
|                                                                                                       | Registered on :- 14/06/2018 |
|                                                                                                       | Decided on :- 09/07/2026    |
|                                                                                                       | Duration :- 08Ys.00Ms.25 Ds |

S.C.C.No.684/2018

Exh. No. 43

**Part 'A'**

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

|                                                                                                                                                                                                                                                                                                                 |  |                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;"><b><u>IN THE COURT OF JUDICIAL<br/>MAGISTRATE FIRST CLASS, (COURT NO.3)<br/>KELAPUR</u></b><br/>(Presided over by Sayema Nikhat Abdul Sattar<br/>Shaikh)<br/><b>(S.C.C.No. 684/2018)</b></p> <p style="text-align: center;">(Crime No.369/2018, Police Station Pandharkawda)</p> |  |                                                                                                                 |
| <b>Prosecution</b>                                                                                                                                                                                                                                                                                              |  | The State of Maharashtra,<br>Through: Police Station, Pandharkawda,<br>Tq. Kelapur Dist. Yavatmal.              |
| <b>Represented by</b>                                                                                                                                                                                                                                                                                           |  | Shri. P.D.Sarode, Learned APP for State                                                                         |
| <b>Accused</b>                                                                                                                                                                                                                                                                                                  |  | Vijay Atamaram Ade,<br>Age :- 36 years Occupation: Labourer,<br>R/o Vasantnagar, Tq. Kelapur<br>Dist. Yavatmal. |
| <b>Represented by</b>                                                                                                                                                                                                                                                                                           |  | Learned Advocate Mr. A.B. Kinake                                                                                |

**Part- 'B'**

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

|                 |            |
|-----------------|------------|
| Date of Offence | 06/05/2018 |
|-----------------|------------|

|                                    |            |
|------------------------------------|------------|
| Date of FIR                        | 06/05/2018 |
| Date of Charge-sheet               | 14/06/2018 |
| Date of Framing of Charge          | 12/06/2016 |
| Date of commencement of evidence   | 12/06/2016 |
| Date on which judgment is reserved | 09/07/2026 |
| Date of the Judgment               | 09/07/2026 |

### **ACCUSED DETAILS**

| Rank of accused | Name of accused      | Date of arrest | Date of release on bail | Offences charged with | Whether acquitted or convicted | Sentence Imposed | Period of detention |
|-----------------|----------------------|----------------|-------------------------|-----------------------|--------------------------------|------------------|---------------------|
|                 | Vijay Atamaram Ade , | 07/05/2018     | 07/05/2018              | Section 509 of IPC    | Acquitted                      | —                | —                   |

### **Part- 'C'**

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

### **LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**

#### **Prosecution-**

| Rank | Name                     | Nature of evidence    |
|------|--------------------------|-----------------------|
| PW1  | Ravindra Nagaorav Rathod | Spot panch            |
| PW2  | Mangla Ravi Rathod       | Informant             |
| PW3  | Gulab Sangdagi Chavan    | Spot panch            |
| PW4  | Monika Ravindra Rathod   | Witness               |
| PW5  | Gopal Eknath Utane       | Investigating Officer |

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

| Sr. No. | Exhibit Number             | Description     |
|---------|----------------------------|-----------------|
| 1       | Exhibit P- 23& 24<br>/PW-2 | Report & N.C.R. |

**MATERIAL OBJECT-**

| Sr. No. | Material Object Number | Description |
|---------|------------------------|-------------|
| --      | --                     | --          |

**J U D G M E N T**

(Delivered on 09<sup>th</sup> Day of July, 2026)

The accused is facing trial for the offence punishable under Section 509 of the Indian Penal Code.

02. The prosecution case in nutshell is that ;

On 06.05.2018, at about 3:00 p.m., the informant was collecting water from a tap situated in the front yard of her house. At that time, the accused, namely Vijay Ade, approached her, winked at her, and asked her to accompany him outside on the pretext of going to the toilet. He further made obscene gestures towards the informant, which were intended to outrage her modesty and caused her to feel humiliated, insulted, and offended.

03. On the basis of complaint, Crime No. 369/2018 was registered for the above mentioned offence and investigation was handed over to P.N. Shri. Gopal Utane. He during investigation visited spot and recorded spot panchnama, recorded statement of witnesses, and after

completion of investigation, he found substance in the allegation of informant and hence he filed charge-sheet against accused in the Court.

04. My learned predecessor recorded plea for the offence punishable under Section 509 of the Indian Penal Code vide Exh. 12. Contents of which was read over to accused in his vernacular, to which he pleaded not guilty and claimed to be tried. Defence of accused is of total denial during his statement recorded under Section 313 of the Code of Criminal Procedure vide Exh. 41.

05. Heard learned A.P.P. Shri. P.D.Sarode for the State and learned Advocate Shri. Kinake for the accused.

06. Following points arise for my determination, to which I have recorded my findings along with reasons as under ;

**POINTS**

**FINDINGS**

- |                                                                                                                                              |                              |
|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1) Whether the prosecution proves that the accused intending to insult the modesty of informant, made obscene gestures by blinking his eye ? | .. In the negative.          |
| 2) What order ?                                                                                                                              | .. The accused is acquitted. |

**{ REASONS }**

07. In order to bring home the guilt of accused, prosecution has examined in all 5 witnesses. As mentioned in No evidence in defence has been produced.

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

08. The informant Mangala deposed that she knows the

accused Vijay. Incident occurred on 06.05.2018 in the courtyard of her house at about 3.00 p.m. At that time she was collecting water from a tap situated in the front yard of her house. At that time, the accused, namely Vijay Ade, approached her, winked at her. Further, the accused by hand gestures he was calling the informant and asked her to accompany him outside on the pretext of going to the toilet. The accused always ask her to accompany him and ask her to flee a way from their house. She further deposed that the accused harasses her since past two to three years. She further told the incident to her husband and sister in law. Hence she lodged complaint with Police Station Kelapur. Ravindra (PW-1) is the husband of the informant. He deposed that incident occurred on 06.05.2018 at about 3.00 p.m. when his wife was collecting water from tap situated at his frontyard the accused winked his eye at her wife and asked her to accompany him on the pretext of going to toilet. He was inside the house at the time of the incident. Informant told him that accused was doing hand gestures and was blinking his eyes. Monika (PW-4) is daughter of the informant. She deposed that the incident occurred at about 12.00 to 1.00 am at midnight. The accused was harassing her mother. The accused caught hold hand of her mother. She ran inside house after removing her hand from the accused. Her mother was wiping and she narrated the incident to her father. Except these three witnesses, prosecution has not examined any other witness to prove alleged incident.

09. Gulab Chavhan (PW-3) is the panch witness. He deposed that police did not call him for panchnama and when he was proceeding from a road, police obtained his signature and he do not know contents of panchnama. Therefore learned A.P.P. sought

permission to put question to his own witness and in spite of granting permission, nothing incriminating was brought on record from evidence of said witness. Then prosecution examined investigating officer P.H.C. Utane(PW-5). He deposed that he received the F.I.R., then he recorded spot panchnama in presence of two panchas, it is at Exh. 36. Then he recorded statement of witnesses and after completion of investigation, he found substance in F.I.R. and hence he filed charge-sheet in the Court.

10. Defence cross-examined PW-1, PW-2, PW-4 and PW-5 and declined to cross-examine PW-3 panch witness. In the instant case, there is no question of challenging of identity as accused is neighbourer of informant. Advocate Kinake draw my attention to cross-examination of informant, at the time of election the village always divides in two groups. She admitted that there is distance between house of the informant and accused. She also admitted that there is always crowd of women near her house. She admitted that the things deposed by her is not mentioned in her statement given to police during investigation. She could not assigned any reason as to why the police not mentioned the specific things mentioned by her. Therefore considering this part of cross-examination, Advocate Kinake argued that false complaint is lodged due to enmity between the parties and no any incident has occurred.

11. Before considering this argument, is is also equally import to note cross-examination of Ravindra (PW-1), wherein he stated that he do not know that there is two groups in his village or not. Further he admitted that quarrel always occures between him and the accused. The Ld. Advocate of the accused has submitted

that there exist previous enmity between the husband of informant and the accused. Monika (PW-4) was also cross-examined on behalf of the accused. She admitted that her statement of 161 was recorded as per her narration. However, she failed to assign reason as to why the specific facts mentioned by her in her examination-in-chief is not mentioned in her statement.

12. On perusal of record in its entirety, it appears that, the informant has deposed that the accused used to harass her since passed three to four years however the same fact is not corroborated by any other witness. Also, the question arises why the informant has not lodged report of harassment and kept mum for such long period. On the contrary, the husband of the informant has specifically admits that his family have dispute with accused. Therefore in view of the same, it appears that informant is not coming before the Court with all true facts and appears to have hiding some of the facts which was specifically admitted by PW-1 in his cross-examination. Moreover, the informant mentioned that near her house there is always crowd of women. However, the prosecution has not examined any independent witness. It is also pertinent to note that the other two witnesses are not the independent witness as well as both the witnesses are hearsay witnesses. The story narrated by the daughter of the informant (PW-4) is altogether different. She has mentioned time of the incident as midnight at about 12.00 to 1.00 am. However, the time mentioned by the prosecution is afternoon 3.00pm. Moreover, she has mentioned that the accused caught hold hand of her mother and her mother ran by pushing him away. The same fact is not stated by the informant herself. It appears that this witness has exaggerated the facts which is nowhere mentioned by the informant.

Therefore, this witness is also not reliable witness.

13. In this back drop it appears that there appears to be grave enmity between family of informant and accused. Though enmity is double edged weapon, in the instant case, cross-examination of PW-1, PW-2 and PW-4 creates doubt in my mind as to occurrence of such incident as alleged by her in view of previous enmity between her family and family of accused. Therefore, evidence of independent witness was important in order to have corroboration to the evidence of PW-2. Therefore, in absence of corroboration and as doubt is created, it will go to the benefit of accused and hence by giving benefit of doubt to accused, I answer point No. 1 in the negative and pass the following order.

**ORDER**

- 1) Accused Vijay Atmaram Ade is acquitted of the offence punishable under Section 509 of the Indian Penal Code vide Section 255(1) of the Code of Criminal Procedure.
- 2) His bail bonds stands cancelled.
- 3) Accused to execute P.B. and S.B. of Rs. 15,000/- vide Section 437-A of the Code of Criminal Procedure.
- 4) Judgment is dictated and pronounced in open Court.

Date:- 09/07/2026  
Place : Yavatmal

Sd/-  
(Sayema N.A.S. Shaikh)  
Judicial Magistrate, First Class  
(Court No.2), Yavatmal.