



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 538 OF 2024

X. Y. Z.

R/o. Nannaj Dumala,
Sangamner, Taluka Sangamner,
Dist. Ahilyanagar.

VERSUS

1. State of Maharashtra,
Through the office of the
Learned Public Prosecutor,
2. Piraji Kashinath Kadnar,
Age : 36 Years, Occ. Agriculture,
3. Swapnil Somnath Kadnar,
Age : 21 Years, Occ. Agriculture,
4. Dattu @ Dattatraya Ramchandra Kadnar,
Age. 31 Years, Occ. Agriculture,
5. Sunita Paraji Kadnar, Occ. Agriculture,
All of the above two to five
R/o. NannajDumala, Taluka Sangamner,
Dist. Ahilyanagar

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Advocate for the Appellant : Mr. S. M. Jain

A.P.P. for Respondent/State : Mrs. M.N. Ghanekar

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**CORAM : SANDIPKUMAR C. MORE AND
VAISHALI PATIL-JADHAV, JJ.**

DATE : 10.07.2026

JUDGMENT (PER SANDIPKUMAR C. MORE, J.) :

1. The appellant/victim, who is the informant, has challenged the acquittal of present respondent Nos. 2 to 4 who are original accused in Sessions Case No. 83 of 2016 for the offenses punishable under Sections 452, 354, 326, 323 and 506 read with 34 of the Indian Penal Code, at the hands of learned Additional Sessions Judge, Sangamner (hereinafter referred to as the “learned Trial Judge”), under judgment and order dated 21.02.2024 in the aforesaid case.

2. As per the prosecution case, the appellant/victim lodged complaint with Sangamner Taluka Police Station, Dist. Ahilyanagar alleging that on 5.6.2016, respondent Nos. 2 to 4 forcibly entered into her house. Swapnil Kadnar i.e. respondent No.3, pressed her breast. Respondent No.2 Piraji assaulted her mother with an iron rod and gave its blow on the head of her mother, whereas respondent No.4-Dattu torn her clothes and Sunita Kadnar, by pulling her hair, pushed her down and assaulted her with fist and kick blows. All of them threatened her of dire consequences. However, the appellant/victim somehow escaped and raised alarm. Her father rushed to home on getting information of the incident,

but by that time all the accused had left that place. Since her mother had sustained bleeding injury to her head, her father took her to Dr. Tambe's Hospital at Sangamner in the vehicle of Kailas Karbari Bachkar. Her mother was unconscious while under treatment. As such, she lodged the FIR on 6.6.2016 and accordingly, Sangamner Taluka Police Station authority registered the crime against respondent Nos. 2 to 5. The investigation started and all the accused/ respondents were charge sheeted for the aforesaid offence. However, the learned Trial Judge, after conducting the trial, acquitted the respondents.

3. The learned counsel for the appellant vehemently argued that the learned Trial Judge did not appreciate the evidence in proper perspective and ignored the evidence of eye witnesses. According to him, there was medical evidence in respect of injury sustained by the mother of appellant/victim coupled with her oral testimony. Moreover, the victim's own evidence also suggested as to how all the accused persons assaulted them and outraged modesty of the victim by pressing her breast and tearing her clothes. He further added that, the learned Trial Judge erroneously relied heavily on the evidence of defence witnesses. As such, he prayed for reversal

of the acquittal of respondent Nos. 2 to 5 into conviction in respect of charges against them.

4. Though the learned counsel for respondent Nos. 2 to 5 remained absent, but with the help of learned counsel for the petitioner as well as learned AGP, we went through the impugned judgment as well as testimonies of the prosecution as well as defence witnesses.

5. So far as charge against the accused under Sections 452, 326, 323, 504, & 506 read with Section 34 of the IPC is concerned, it is the case of the prosecution that respondent No.2-Piraji, had inflicted injury on the head of P.W.2 i.e. mother of victim. However, though the victim as well as her mother stated so before the learned Trial Judge, but in the cross-examination, P.W.2 has admitted that after the incident, her husband had taken her to the house of Bachkar by walking only and that she had not become unconscious. This fact is totally contradictory to the evidence given by the informant. According to the case of the prosecution as well as the appellant/victim, P.W.2, after getting injured, had become unconscious and she was taken to the hospital in the vehicle of Bachkar. As such, it can be seen that P.W. 2 is stating contrary to the case of

prosecution. Moreover, she in clear terms, stated in the cross-examination that it is their job to lodge a false complaint and blackmail the person against whom such complaint is made.

6. It is extremely important to note that according to the prosecution, the iron rod, which is allegedly used by respondent No.2-Piraji for inflicting injury on the head of P.W.2, was in fact produced by P.W.2. However, P.W.2 in her cross-examination clearly denied the said fact. Moreover, it has also come on record by way of defence evidence that Piraji was in fact got injured at the hands of father of the victim. P.W.4, who is the victim's father, has admitted in his cross-examination that on the day of incident he had a quarrel with respondent No.2-Piraji and he had inflicted knife injury to Piraji. Even the defence witness Dr. Rajendra Bhausahab Maske, who is also P.W.7, has admitted the fact that he had examined Piraji on 5.6.2016 and found multiple CLWs on Piraji's both hands along with cut injuries. There was also blunt trauma over the chest and abdomen. However, though the prosecution has made Piraji as accused No.1, but did not explain about injuries found on his person. As such, there may be possibility that the complainant party was aggressive

at the time of incident and only to shield their act, the victim might have lodged the report against the respondents/accused.

7. Further, P.W.7 Dr. Maske, who had examined victim's mother and found that her head injury was simple in nature, in the cross-examination itself he has admitted that no blood was oozing from head injury and it was merely a superficial injury. He further stated that, he did not find any injury on the body of P.W.2 caused by a stick. Further, the blunt trauma over chest and abdomen of P.W.2 was also not visible. He also clarified that P.W. 2 at the time of examination was not unconscious. As such, the admissions given by this Medical Officer, in relation to the injuries allegedly sustained by P.W.2, are totally contradictory to the prosecution's case. Considering all these aspects, *prima facie* it appears that the prosecution case is highly doubtful and unbelievable. Moreover, it seems that due to earlier rivalry, the appellant/victim might have lodged false complaint against the respondent Nos. 2 to 5/accused.

8. So far as charge under Section 354 of the IPC is concerned, the main allegations regarding the same are

against respondent No.3 and 4 namely Swapnil and Dattu. The victim has alleged that Swapnil had pressed her breast, whereas Dattu had torn her clothes. However, P.W.6 Dr. Bhaskar Bhavar, who had examined the victim in Rural Hospital, Sangamner, has clearly stated that though she gave history of blunt trauma over lower back and chest, but there were no visible injuries noted. Further this witness also did not find any marks of violence. There were no external injuries anywhere on the body of the appellant/victim. Therefore, her allegations that accused Swapnil pressed her breast and accused Dattu torn her clothes, do not get support from the evidence on record.

9. So far as presence of accused Swapnil on the spot is concerned, the accused have examined one Chandrakant Wahval as D.W.2, who runs Restaurant under name and style as “Hemant Garden & Restaurant” at Aale Phata Junner. According to this witness, there were CCTV cameras in his hotel. He has deposed that on 6.7.2016, Sangamner Taluka Police had come to his hotel and took away CCTV footage of the day 5.6.2016 in one pen drive. This witness further stated that according to the said CCTV footage, accused-Swapnil was present in his hotel on 5.6.2016 at about 10.00

a.m. in the morning. It has already come on record that the place of incident was 90 Kms away from this hotel. According to the prosecution, the incident had taken place at 9.00 a.m. on the said day. Thus, the presence of accused-Swapnil in the aforesaid hotel at 10.00 a.m., which is 90 Kms away from the spot of incident, clearly indicates that he was not present on the spot of incident. Therefore, the allegation against accused Swapnil about outraging the modest of victim appears to be highly doubtful.

10. Same is the case with accused Dattu, against whom the allegations of tearing clothes are levelled by the appellant/victim. However, it has already come on record that those clothes were in fact seized after about two months. There is no explanation on record as to why those clothes were not seized immediately. As such, considering all these facts, it is clearly apparent that the prosecution case is highly doubtful and the evidence on record is not convincing to establish the guilt of the accused beyond reasonable doubt. The plea of alibi raised by accused Dattu and Swapnil about their absence on the place of incident at the relevant time appears convincing in the light of defence evidence. There is no explanation about the injury sustained by the accused-

Piraji. The mother of the victim has also deposed contrary to the case of prosecution and the evidence of the victim itself is not convincing at all. The learned Trial Judge, by considering the evidence on record, has therefore, rightly come to the conclusion that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. Therefore, we do not find any reason to interfere with the impugned judgment. Accordingly the appeal stands dismissed.

(VAISHALI PATIL-JADHAV)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

Y.S. Kulkarni