

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.676 of 2013**

Arising Out of PS. Case No.-1 Year-2011 Thana- IMADPUR District- Bhojpur

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Razaque Ansari @ Rajak Ansari S/O Late Madin Ansari Resident Of Village-
Khutahan, P.S- Imadpur, District- Bhojpur.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ravindra Kumar, Advocate

For the Respondent/s : Mr.Satya Narayan Pd., APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 16-06-2026

Heard learned counsel appearing on behalf of the
appellant and, learned APP for the State.

2. The present appeal has been filed under Section 374
(2) and 389(1) of the Code of Criminal Procedure challenging
the judgment of conviction dated and order of sentence dated
29.08.2013 passed by the learned Sessions Judge, Bhojpur at
Ara in Sessions Trial No.234 of 2011 arising out of Imadpur
P.S. Case No. 1 of 2011 whereby and whereunder the appellant
has been convicted for the offence punishable under Sections
354, 324 and 452 of the Indian Penal Code and has been
sentenced to undergo Rigorous Imprisonment for 1 year.

BRIEF FACTS OF THE CASE

3. The prosecution case, in brief, is that on 10.12.2010



at about 3:00 P.M., when the prosecutrix was alone in her house, the appellant allegedly entered the premises with an intention to commit sexual assault upon her. It is alleged that he forcibly pushed her to the ground and attempted to commit rape. The prosecutrix, whose husband had died about one and a half years prior to the occurrence, was allegedly threatened with a dagger and warned not to raise any alarm. However, she resisted and raised cries for help, whereupon one Ainul Mansuri, having heard the alarm, rushed to the house and intervened to rescue her. The prosecution alleges that the appellant then assaulted Ainul Mansuri with the dagger and inflicted four knife blows on the right side of his face, rendering him incapable of apprehending the appellant, who thereafter fled from the place of occurrence. It is further alleged that several persons witnessed the appellant running away immediately after the incident. According to the prosecution, due to fear and intimidation, neither the prosecutrix nor the injured Ainul Mansuri approached the police on the date of occurrence. On the following day, they went to the police station to lodge a report, but were advised by the police officer concerned to first get the injuries medically examined. Accordingly, Ainul Mansuri was medically examined at Arah Sadar Hospital on



13.12.2010; however, the police allegedly failed to register the case even thereafter. Consequently, the prosecutrix instituted a complaint case before the learned Chief Judicial Magistrate, Ara, which was forwarded to the police under Section 156(3) of the Code of Criminal Procedure for investigation, pursuant to which Imadpur P.S. Case No. 01 of 2011 was registered for the offences punishable under Sections 324, 452 and 376/511 of the Indian Penal Code, and investigation was thereafter undertaken.

4. After institution of the FIR, the police proceeded with the investigation and after completion of investigation, charge-sheet was submitted. Thereafter, the trial court took cognizance against the appellant and the case was committed to the Court of Sessions for trial.

ARGUMENT ON BEHALF OF THE APPELLANT

5. Learned counsel appearing on behalf of the appellant submitted that the learned Trial Court failed to properly appreciate the evidence on record and did not adequately examine whether the essential ingredients constituting the offences punishable under Sections 354, 324 and 452 of the Indian Penal Code were established beyond reasonable doubt. It is contended that a perusal of the impugned judgment itself reveals that the appellant had earlier instituted



Imadpur P.S. Case No. 47 of 2010 dated 10.12.2010 against P.W.1 (Ainul Mansuri) and Babuddin Mian, and that the present prosecution was initiated as a counterblast to the said case. Learned counsel submitted that although the alleged occurrence took place on 10.12.2010, no FIR was lodged immediately and, after an unexplained delay, a complaint case came to be filed before the learned Magistrate. It is further argued that while the complaint alleged commission of offences under Section 376 IPC, the materials brought on record during trial failed to establish the ingredients of the said offence or of the offences punishable under Sections 354, 324 and 452 IPC. According to the learned counsel, the learned Trial Court itself found that no case under Section 376 IPC was made out, yet proceeded to convict the appellant under other provisions without there being sufficient legal evidence to sustain such conviction.

6. Learned counsel further submitted that there were material contradictions and inconsistencies in the testimonies of the prosecution witnesses. In particular, P.W.1 Ainul Mansuri did not support the allegation of the complainant (P.W.3) regarding the appellant having outraged her modesty. It is also contended that the Investigating Officer, during the course of investigation, did not find any incriminating material or



evidence suggesting commission of rape or an attempt to commit rape by the appellant. Learned counsel argued that the conviction under Section 324 IPC is equally unsustainable, as the prosecution failed to adduce reliable evidence proving the alleged assault in the manner claimed. Emphasizing that the present case arose out of a case and counter-case relating to the same occurrence, in which the appellant in his self defence may have caused some injury on the Ainul Mansuri (PW-1), learned counsel submitted that the appellant has been falsely implicated due to prior enmity and in retaliation to the criminal case lodged by him. It is contended that the learned Sessions Judge acted contrary to the settled principles of criminal jurisprudence in recording the conviction on the basis of general and uncorroborated allegations, and therefore, the impugned judgment of conviction and order of sentence deserve to be set aside.

ARGUMENT ON BEHALF OF THE STATE

7. *Per Contra*, learned APP appearing for the State while opposing the appeal submitted that the learned District court, after considering all the evidences on record and exhibits submitted on behalf of the parties during the course of trial, has rightly convicted the appellant for said offences.



ANALYSIS AND CONCLUSION

8. Heard the parties.

9. I have perused the lower court records and proceedings and also taken note of the arguments canvassed by learned counsel appearing on behalf of the parties.

10. The learned trial court, on the basis of materials as collected during the course of investigation, passed the Judgment of conviction and order of sentence dated 29.08.2013 for the offences under Sections 354, 324 and 452 of the Indian Penal Code.

11. During the trial, the prosecution has examined altogether eight witnesses, namely:

- (i) (P.W.-1),- Ainul Mansuri (Bhaisur of the complainant)
- (ii) (P.W.-2),- Ramesh Prasad (Hearsay witness)
- (iii) (P.W.-3),- Julekha Khatun (informant)
- (iv) (P.W.-4),- Samsuddin (Tender witness)
- (v) (P.W.-5),- Shahida Khatoon (Nanad of informant/cousing sister-in-law)
- (vi) (P.W.-6),- Deonath Giri (independent witness)
- (vii) (P.W.-7),- Tara Nand Jha / Investigating Officer
- (viii) (P.W.-8),- Dr. Surendra Kr. Prasad /Doctor

12. The prosecution has also relied upon following



document exhibited during the course of trial:-

- i. Exhibit 1, Formal FIR,
- ii. Ext. 2- signature of S.I. Uma Shankar Sharma,
- iii. Ext.3 injury report and proved,
- iv. Ext. A, certified copy of FIR of Imadpur P.S. Case No.47/2010
- v. Ext. B, certified copy of charge-sheet of Imadpur P.S. Case No.47 of 2010.

13. Upon a meticulous examination of the record, the evidence of the prosecution witnesses (PWs) can be summarised as follows:

P.W.1 Ainul Mansuri deposed that on 10.12.2010 at about 3:00 P.M., while returning from the market, he heard cries emanating from the house of the informant, Julekha Khatoon. On reaching there, he found the accused, Razaque Mian, over the body of Julekha Khatoon. When he protested, the accused assaulted him with a dagger causing injuries. Thereafter, he was taken to Piro Hospital and subsequently referred to Sadar Hospital, Ara, where he received treatment. During cross-examination, he stated that the prosecutrix was related to him as the wife of his younger brother, though they resided separately. He further stated that after sustaining injuries he became



unconscious and could not say who reached the place of occurrence thereafter.

P.W. 2 – Ramesh Prasad @ Rameshwar Sah stated that the occurrence had taken place about three years prior to his deposition. He did not witness the occurrence as he was not present in the village on that day. According to him, after returning to the village about sixteen days later, he saw bandages on the head of Ainul Mansuri, who informed him that he had sustained dagger injuries. Villagers also informed him that the injuries had been caused by the accused, Razaque Mian. Thus, his evidence is hearsay in nature.

P.W. 3 – Julekha Khatoon (Informant/Prosecutrix) the informant and prosecutrix, deposed that about 2½ years prior to her deposition, at about 3:00–4:00 P.M., she was alone in her house when the accused entered therein, pushed her, removed her sari and attempted to commit rape upon her. Upon her raising alarm, Ainul Mansuri arrived, whereupon the accused left her and assaulted Ainul Mansuri with a dagger causing multiple injuries. She further stated that Ainul Mansuri became unconscious and was taken first to Piro Hospital and then to Sadar Hospital, Ara. She also stated that when the police failed to register her case, she filed a complaint petition before the



Court of the Chief Judicial Magistrate, Ara. During cross-examination, she admitted that the accused was neither naked nor had he removed all her clothes, and that he had not opened her petticoat.

P.W. 4 – Samsuddin was tendered for cross-examination and did not depose regarding the occurrence. No material evidence emerged from his testimony.

P.W. 5 – Sahidan Khatoon stated that the prosecutrix was her cousin sister-in-law (Bhabhi) and that their houses were situated nearby. On hearing alarm from the house of the prosecutrix, she rushed there and saw the accused, Razaque Mian, running away from the house. She found Ainul Mansuri injured. The prosecutrix informed her that the accused had entered her house and outraged her modesty. Though she inadvertently referred to the prosecutrix as “Sulekha” instead of “Julekha”, she substantially supported the prosecution case.

P.W. 6 – Deo Nath Giri did not support the prosecution case. He stated that he neither heard any alarm nor had any knowledge of the occurrence. He further stated that he had informed the police that he had no knowledge about the incident. Consequently, he was treated as a hostile witness.

P.W. 7 – Tara Nand Jha (Investigating Officer) deposed



that on 22.01.2011, while posted at Imadpur Police Station, he received the complaint petition of Julekha Khatoon from the Court and, on that basis, instituted Imadpur P.S. Case No. 1 of 2011. He proved the formal F.I.R. and the signature of the then Officer-in-Charge, Uma Shankar Sharma, thereon. He further stated that he took up investigation, recorded the statement of the prosecutrix and other witnesses including Sahidan Bibi, Jakhir, Deo Nath Giri, Ramesh Prasad and Ainul Mansuri, obtained the injury report and supervision note, and thereafter submitted charge-sheet against the accused.

P.W. 8 – Dr. Surendra Kumar Prasad (Medical Officer) deposed that on 13.12.2010, while posted as Medical Officer at Sadar Hospital, Ara, he medically examined Ainul Mansuri and found the following injuries:

a. One incised wound on the right side of the forehead measuring 1" × ¼", skin deep.

b. One incised wound on the left side of the forehead measuring 1" × ¼", skin deep.

c. One incised wound on the anterior part of the head measuring approximately 1½", situated posterior to Injury No. 2.

d. Two small lacerated wounds on the right cheek, each



measuring approximately $\frac{1}{3}$ " $\times$ $\frac{1}{4}$ ", skin deep.

The doctor opined that the injuries were 36 to 72 hours old. Injuries Nos. 1, 2 and 3 were caused by a sharp-cutting weapon, whereas Injury No. 4 was caused by a hard and blunt substance. He further opined that all the injuries were simple in nature. He proved the injury report, which was marked as Ext. 3.

14. On the basis of materials surfaced during the trial, the appellants/accused was examined under Section 313 of the Cr.PC by putting incriminating circumstances/evidences surfaced against them, which they denied and shows their complete innocence.

15. Before, I proceed to analyse the facts, I find it proper to reproduce the provision of Section 324 and 354 of IPC, *inter alia* as under:-

"324. Voluntarily causing hurt by dangerous weapons or means.—Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

354. Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses



criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.”

In the above background of facts and testimony of the witnesses and the evidence on record the question which arises for consideration before this Court is whether, the prosecution has been able to establish the essential ingredients of the offence punishable under Sections 354 and 324 of the Indian Penal Code and whether the conviction of the appellant under the said provision is sustainable in the eyes of law?

Section 354 of IPC

16. From a plain reading of Section 354 of the Indian Penal Code, it is evident that in order to bring home the charge under the said provision, the prosecution is required to establish the following essential ingredients:

(i) that the victim of the alleged occurrence is a woman;

(ii) that the accused assaulted or used criminal force against such woman;

(iii) that such assault or use of criminal force was intentional and attributable to the accused; and



(iv) that the accused committed such act with the intention of outraging the modesty of the woman, or with the knowledge that his act was likely to outrage her modesty.

17. Thus, for constituting an offence under Section 354 IPC, it is not sufficient merely to prove the use of force or physical contact with a woman; rather, the prosecution must further establish that the act complained of was accompanied by the requisite intention or knowledge contemplated under the provision. In the absence of proof of such intention or knowledge, the offence under Section 354 IPC cannot be said to have been made out.

18. In case of ***State of Punjab v. Major Singh*** [AIR 1967 SC 63], the Hon'ble Supreme Court held that the essence of a woman's modesty is her sex and that modesty is an attribute which a female possesses from her very birth. The Court observed that any act done to or in the presence of a woman, which is clearly suggestive of sex according to the common notions of mankind, would fall within the ambit of Section 354 IPC. The said principle was reiterated in *Rupan Deol Bajaj v. Kanwar Pal Singh Gill*, [(1995) 6 SCC 194], wherein it was held that the ultimate test for determining whether the modesty of a woman has been outraged is whether the act complained of



is such as is capable of shocking the sense of decency of a woman and constitutes an affront to her feminine dignity and modesty.

19. In case of ***Raju Pandurang Mahale v. State of Maharashtra, (2004) 4 SCC 371*** Apex court has examined the meaning and ingredients of Section 354 of IPC:

11. Coming to the question as to whether Section 354 of the Act has any application, it is to be noted that the provision makes penal the assault or use of criminal force on a woman to outrage her modesty. The essential ingredients of offence under Section 354 IPC are:

- (a) That the assault must be on a woman.*
- b) That the accused must have used criminal force on her.*
- (c) That the criminal force must have been used on the woman intending thereby to outrage her modesty.*

12. What constitutes an outrage to female modesty is nowhere defined. The essence of a woman's modesty is her sex. The culpable intention of the accused is the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive. Modesty in this section is an attribute associated with female human beings as a class. It is a virtue which attaches to a female owing to her sex. The act of pulling a woman, removing her saree, coupled with a request for sexual intercourse, is such as would be an outrage to the modesty of a woman; and knowledge, that modesty is likely to be outraged, is sufficient to constitute the offence without any deliberate intention having such outrage alone for its object. As indicated above, the word "modesty" is not defined in IPC. The Shorter Oxford Dictionary (3rd Edn.) defines the word "modesty" in relation to a woman as follows:

"Decorous in manner and conduct; not forward or lewd; Shamefast; Scrupulously chaste."



13. Modesty is defined as the quality of being modest; and in relation to a woman, "womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct". It is the reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions. As observed by Justice Patteson in R. v. James Lloyd [(1836) 7 C&P 317 : 173 ER 141] :

In order to find the accused guilty of an assault with intent to commit a rape, court muupulous chastity of thought, speech and conduct (in man or woman); reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions"st be satisfied that the accused, when he laid hold of the prosecutrix, not only desired to gratify his passions upon her person but that he intended to do so at all events, and notwithstanding any resistance on her part. The point of distinction between an offence of attempt to commit rape and to commit indecent assault is that there should be some action on the part of the accused which

14. 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".

20. The aforesaid proposition of law was reiterated by the Apex Court in case of ***Naresh Aneja @ Naresh Kumar Aneja Versus State Of Uttar Pradesh & Anr.*** reported in (2025) ***INSC 19.***

21. Now coming to Section 324 of the Indian Penal Code, it is evident that in order to constitute an offence under



the said provision, the prosecution is required to establish the following essential ingredients:

(i) that the victim sustained “hurt” within the meaning of Section 319 IPC;

(ii) that such hurt was caused voluntarily by the accused, that is to say, with the intention of causing hurt or with the knowledge that his act was likely to cause hurt;

(iii) that the hurt was caused by means of any instrument for shooting, stabbing or cutting, or by any instrument which, when used as a weapon of offence, is likely to cause death; or by means of fire, any heated substance, poison, corrosive substance, explosive substance, any deleterious substance, or by means of any animal; and

(iv) that the case does not fall within the exception contemplated under Section 334 IPC.

22. Thus, for attracting the provisions of Section 324 IPC, it is not sufficient merely to prove that the victim suffered an injury. The prosecution must further establish that the injury was voluntarily caused by the accused by using a dan *i.e* gerous weapon or dangerous means as contemplated under the section. It is only upon satisfactory proof of the aforesaid ingredients that an offence under Section 324 IPC can be said to be made



out.

23. Section 324 IPC criminalises the voluntary causing of hurt by means of dangerous weapons or dangerous means. The provision contemplates that where a person voluntarily causes hurt to another by using an instrument for shooting, stabbing or cutting, or any instrument, which when used as a weapon of offence, is likely to cause death, such act would attract the penal consequences prescribed therein. The gravamen of the offence under Section 324 IPC, therefore, lies in the voluntary infliction of hurt coupled with the use of a dangerous weapon or means specified under the section. The punishment prescribed is imprisonment of either description for a term which may extend to three years, or with fine, or with both.

24. The Hon'ble Supreme Court in case of ***Roop Chand @ Lala v. State (NCT of Delhi), Criminal Appeal No. 2204 of 2010***, held that Section 324 IPC criminalises the voluntary causing of hurt by means of dangerous weapons or dangerous means, it is not necessary for the injury under Section 324 IPC to be of such a nature as to endanger life; the essential requirement is that hurt must have been voluntarily caused by use of a dangerous weapon or means contemplated under the



section.

Whether the prosecution has been able to establish the charges levelled against the appellant beyond all reasonable doubt and whether the conviction recorded by the learned Trial Court is sustainable in law?

25. The learned trial Court convicted the appellant for the offence under Section 354 IPC after ruling out that no case of rape is made out under Section 376 of the IPC, however, convicted the appellant under Section 324 IPC having recorded that he had assaulted P.W-1, who had come in defence of the complainant while the appellant attempted to rape her.

26. Upon a careful consideration of the evidence available on record, it is an admitted position that there exists a case and counter-case between the parties arising out of the same occurrence. The records reveal that Imadpur P.S. Case No. 47 of 2010 was instituted on 10.12.2010, *i.e.*, on the very date of the alleged occurrence, and the present prosecution was subsequently set in motion through a complaint case. When there is existence of rival versions regarding the same incident casts an obligation upon the Court to scrutinize the prosecution evidence with greater caution and circumspection. From the materials available on record, it appears that an altercation and



scuffle had admittedly taken place between the parties, which subsequently escalated into a physical confrontation. In such circumstances, the possibility that during the course of the scuffle the appellant may have come into physical contact with the complainant cannot be ruled out. However, mere physical contact or grappling during a confrontation, in the absence of reliable and convincing evidence demonstrating the requisite criminal intent, cannot by itself lead to the conclusion that the appellant intended to outrage the modesty of the complainant or attempted to commit rape. The prosecution has failed to bring on record any cogent evidence establishing the essential ingredients necessary to constitute an offence of attempt to rape or even an offence relating to outraging the modesty of a woman. The findings recorded by the learned Trial Court on this aspect, therefore, appear to be based more on conjectures and assumptions than on legally admissible evidence. This Court further finds that the conviction recorded under Section 324 of the Indian Penal Code is similarly unsustainable. The prosecution sought to attribute the injuries sustained by P.W.1 Ainul Mansuri to the appellant; however, the evidence on record does not support such conclusion. Significantly, Ainul Mansuri, in his statement



recorded under Section 161 of the Code of Criminal Procedure during the course of investigation, had stated that the alleged assault was committed by Babuddin Miyan, son of the complainant and late Mubarak Miyan. This material contradiction strikes at the root of the prosecution case and seriously undermines the reliability of the version presented during trial. The prosecution has failed to satisfactorily explain the departure from the earlier version given during investigation. In case of *Aslam @ imran vs state of Madhya Pradesh* reported in **2025 INSC 403**, held that In a criminal trial, particularly where conviction is sought to be founded upon the testimony of interested witnesses in the backdrop of a case and counter-case, such contradictions assume considerable significance and cannot be brushed aside as minor discrepancies. The evidence, when appreciated in its entirety, does not inspire confidence to hold that the appellant was the author of the injuries allegedly sustained by P.W.1. The learned Trial Court, in the considered opinion of this Court, failed to properly appreciate these material inconsistencies and proceeded to record a finding of guilt without there being sufficient, cogent and trustworthy evidence to establish the charges beyond reasonable doubt. Consequently, the conviction



of the appellant cannot be sustained in law and is liable to be set aside.

27. Accordingly, the present appeal is allowed.

28. The impugned judgment of conviction and order of sentence dated 29.08.2013 passed by the learned Session Judge, Bhojpur, Ara in S.T. No. 234/2011 arising out of Imadpur P.S. Case No. 01/2011 is hereby set aside. Consequently, the above-named appellant is acquitted from all the charges levelled against him. Since the appellant is on bail, he is discharged from the liability of his bail bond.

29. Office is directed to send back the lower court records along with a copy of the judgment to the learned District Court forthwith.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	19.06.2026
Transmission Date	19.06.2026

