



2026:KER:77096

Crl.R.P.No.481 of 2007

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2026/8TH ASWINA, 1948

CRL.REV.PET NO. 481 OF 2007

**AGAINST THE ORDER/JUDGMENT DATED 30.10.2006 IN CRL.A
NO.537 OF 2004 OF THE III ADDITIONAL SESSIONS COURT,
(ADHOC) FAST TRACK COURT NO.I, THRISSUR, ARISING OUT OF THE
ORDER/JUDGMENT DATED 23.08.2004 IN CC NO.590 OF 2002 OF
JUDICIAL MAGISTRATE OF FIRST CLASS - I, CHALAKUDY**

REVISION PETITIONER/APPELLANT/ACCUSED:

**RAJENDRAN
S/O. MANIVEL, CHIRAKKAL HOUSE,
URUMBANKUNNU DESOM, PERAMBRA VILLAGE,
MUKUNDAPURAM TALUK.**

**BY ADVS.
SRI.M.H.HANIL KUMAR
SMT.GOPIKA ANIL**

RESPONDENT/RESPONDENT:

**STATE OF KERALA
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY ADV PUBLIC PROSECUTOR

OTHER PRESENT:

SMT. TANIYA JOY, PP

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 30.09.2026, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**



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ORDER

(Dated this the 30th day of September, 2026)

This Criminal Revision Petition has been filed under Sections 397 and 401 of the Code of Criminal Procedure, challenging the judgment dated 30.10.2006 in Criminal Appeal No.537/2004 on the file of the Additional Sessions Court-III (Adhoc) Fast Track Court No.I, Thrissur, arising out of the judgment dated 23.08.2004 in C.C. No.590/2002 on the file of the Judicial First Class Magistrate Court, Chalakudy, whereby the revision petitioner herein was found guilty and convicted for the offence punishable under Section 354 of the Indian Penal Code. The revision petitioner is the sole accused in the said case.

2. The prosecution case, in brief, is that on 26.03.2002 at 10.00 a.m., while CW1 was passing through Urumbankunnu Panchayath Road, the accused hit her with his elbow on her right chest and thereby outraged her modesty. Thus, the accused is alleged to have committed the aforementioned offence.



3. During the trial, in order to bring home the guilt of the accused, the prosecution had examined six witnesses as PW1 to PW6 and marked Exts. P1 & P2. After the closure of the prosecution evidence, the accused was questioned under Section 313 of the Cr.P.C., during which he denied all the incriminating circumstances brought out against him in evidence. From the side of the defence, no evidence whatsoever was produced.

4. After trial, the learned Magistrate found the accused guilty of the offence punishable under Section 354 of the Indian Penal Code and sentenced him to undergo simple imprisonment for one month and to pay a fine of Rs.1,000/-(thousand). In default of payment of the fine, he was sentenced to undergo simple imprisonment for one month.

5. Aggrieved by the same, the accused preferred an appeal before the Sessions Court, Thrissur. The learned Additional Sessions Judge-III, Thrissur, who heard the appeal, confirmed the judgment of conviction as well as the



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order of sentence passed by the Trial Court and accordingly dismissed the appeal. Aggrieved thereby, the accused has preferred the present revision petition.

6. Heard Smt. Clara Sherin Francis, the learned amicus curiae, and Smt. Tania Joy, the learned Public Prosecutor, and also perused the records.

7. The learned amicus curiae submitted that the revision petitioner is totally innocent of the allegations levelled against him and he was found guilty by the trial court as well as the appellate court in sheer haste without properly appreciating the facts and evidence brought out in this case. According to the learned amicus curiae, although from the evidence it is established that PW1 is in loggerheads with the accused in connection with a case registered against her husband on the strength of a complaint given by the accused herein, the trial court as well as the appellate court overlooked the same and recorded a finding of guilt without properly verifying the



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apparent chances of false implication in this case. According to the learned amicus curiae, when there is a chance of false implication, it is not prudent to act upon the solitary evidence of a victim of a sexual assault case, and it is always safe to look for independent corroboration before entering into a finding. The learned amicus curiae further submitted that although PW4, the mother of the defacto complainant, had supported the case of the prosecution to some extent, the trial court placed reliance on her evidence, overlooking the fact that she came to the place of occurrence when the relevant part of the incident was over. According to the learned amicus curiae, the evidence of PW1 and PW4 is mutually contradictory regarding the particular aspect of the incident, including the time of the incident. Therefore, the learned amicus curiae urged that without independent evidence it is unsafe to convict the accused, and hence the impugned judgment requires interference. The learned amicus curiae also pointed out that there is a delay of one day in lodging the FIR in this



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case and the said delay is fatal to the prosecution. The learned amicus curiae further urged that the ingredients to attract an offence under Section 354 of IPC are wanting in this case. Particularly since the nature of the overt act did not suggest that the accused bore an intention to outrage the modesty of the woman.

10. Per contra, the learned Public Prosecutor opposed the plea for acquittal and submitted that both the trial court and the appellate court, after appreciating the evidence in its proper perspective, have entered a finding of guilt against the accused based on convincing evidence and materials placed on record by the prosecution. It was further submitted that there is no apparent illegality, irregularity, or perversity in the impugned judgment and, hence, interference in the exercise of the revisional jurisdiction of this Court is not warranted.

11. Before delving into a detailed discussion regarding the rival contentions raised, it is pertinent to note that it is



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well settled through a series of judicial pronouncements that a court exercising revisional jurisdiction will interfere with the judgments or orders of the trial court or the appellate court only if the same suffer from illegality, impropriety, or perversity. Unless the judgment passed by the learned Magistrate or by the appellate court is perverse, or the view taken by the court is unreasonable, or there is non-consideration of any relevant material, or there is palpable misreading of the records, the revisional court is not justified in interfering with the judgment. The revisional court cannot act as an appellate court.

12. In **State of Kerala v. Jathavedan Namboodiri** [AIR 1999 SC 981], the Hon'ble Supreme Court held thus:

"In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of Supervisory Jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated



with the power of an Appellate Court nor can it be treated even as a second Appellate Jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice."

13. Keeping in mind the above principles and reverting to the present case, it can be seen that this is a case in which a lady was allegedly molested by the accused by hitting her on the chest with the accused's elbow. Before considering whether the finding of the trial court, which was confirmed in appeal by the learned Additional Sessions Judge, requires interference, it is necessary to examine the offence under Section 354 of the IPC. Section 354 of the IPC punishes a person for an act done with the intention of outraging the modesty of a woman. Therefore, the essential ingredient for attracting an offence under Section 354 is the intention to outrage the modesty of a woman.



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Intention being a state of mind, the same cannot ordinarily be proved by direct evidence. In order to ascertain the intention behind an act, a court cannot search into the mind of the person concerned. Therefore, in determining whether a person had a particular intention while committing a particular act, the nature and circumstances of the act committed have to be scrutinized carefully.

14. In the case at hand, the specific overt act attributed to the accused is that he hit the chest of the prosecutrix with his elbow. I am at a loss to understand how a criminal intention to outrage the modesty of a woman can be attributed to a person who allegedly committed such an act. Therefore, I have no hesitation in holding that the necessary mens rea to constitute an offence under Section 354 of the IPC is lacking in this case.

15. Moreover, in the case at hand, a perusal of the impugned judgment as well as the records reveals that the trial court mainly relied upon the evidence of PWs 1 and 4



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in recording the conviction against the accused. The appellate court also confirmed the conviction based on the evidence of the said witnesses. However, while considering the reliability of the evidence of PWs 1 and 4, it is to be borne in mind that, from the outset of the arguments, the learned amicus curiae has contended that PW1 had an axe to grind against the accused, as a case was pending against her husband on the basis of a complaint lodged by the accused prior to the incident in the present case. During cross-examination, PW1 admitted the existence of such a case against her husband. Therefore, as rightly pointed out by the learned amicus curiae, the possibility of false implication cannot be ruled out altogether in the present case.

16. However, I am conscious of the fact that, by a series of judicial pronouncements, it is no longer *res integra* that the evidence of a victim in a sexual assault case is to be assessed on the same footing as that of an injured witness in a criminal case. Likewise, it is well settled that an



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injured witness carries an inherent assurance of his or her presence at the scene of occurrence and, ordinarily, would not implicate an innocent person, particularly since doing so would provide an opportunity for the actual culprit to escape. However, in the case at hand, as already stated, the existence of a previous dispute has been established. When PW1 is alleged to have a motive to falsely implicate the accused, her evidence has to be scrutinized with greater care and circumspection. Therefore, it would be safe to look for independent corroboration before acting upon such evidence.

17. I am not oblivious of the fact that, apart from the evidence of PW1, the prosecution heavily relies upon the evidence of PW4 to prove the incident. However, it cannot be ignored that PW4 is none other than the mother of PW1. I am not unmindful of the settled position of law that relationship, by itself, is not a ground to discard evidence. However, while considering the evidence of a relative witness, it is quite natural that such a witness may



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have some interest in the outcome of the case. If the presence of the relative at the scene of occurrence is established by other oral evidence and surrounding circumstances, her evidence cannot be rejected in toto solely on the ground of relationship.

18. Nevertheless, when there is a possibility of false implication, a meticulous analysis of the evidence of a relative witness becomes necessary. In the case at hand, no independent evidence has been adduced either to prove the occurrence or to prove the presence of PW4 at the time of occurrence. Therefore, in the facts and circumstances of the present case, I have no hesitation to hold that the evidence of PW1 and PW4 alone cannot form basis for a conviction in this case. Moreover, as already stated, even if the evidence given by PW1 and PW4 regarding the alleged act is taken on its face value, the same would not constitute the ingredients to attract an offence under Section 354 of the IPC.



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In the result, this Crl.R.P is allowed. The judgment of conviction and the order of sentence passed against the revision petitioner/accused for the offence punishable under Section 354 of the IPC are set aside, and the accused is acquitted. The bail bond, if any, executed by him shall stand cancelled. The fine amount, if any, deposited by the revision petitioner/accused shall be refunded to him in accordance with law.

Sd/-

**JOBIN SEBASTIAN
JUDGE**

Pvv