IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 194 of 2015
Reserved on: 08.10.2026
Date of Decision: 02.11.2026.

Punnu Ram ...Petitioner

Versus

State of H.P. ...Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] *Yes*

For the Petitioner : Mr N.S. Chandel, Senior Advocate with Mr. Sidharth, Advocate.

For the Respondent/State : Mr. P.K. Nadda, Additional Advocate General.

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 25.05.2015 passed by learned Additional Sessions Judge, Ghumarwin, District Bilaspur, H.P., Camp at Bilaspur (learned Appellate Court) vide which the judgment of conviction dated 06.08.2014 and order of sentence dated 08.08.2014 passed by learned Chief Judicial Magistrate, Bilaspur, HP (learned Trial Court) were upheld. *(The parties shall hereinafter be referred to in*

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

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the same manner as they were arrayed before the learned Trial Court for convenience).

2. Briefly stated, the facts giving rise to the present revision are that the police presented a challan before the learned Trial Court against the accused for the commission of an offence punishable under Section 354 of the Indian Penal Code (IPC). It was asserted that the informant (name being withheld to protect her identity) had gone to the jungle to fetch grass on 01.12.2009. She was returning to her home with grass at about 09:30, when the accused called her, and the informant stopped. The accused told her to take ₹100/- and accompany him to the jungle. He caught hold of the informant's hand. The informant shouted for help. Basant Ram (PW3) and his wife Barfi Devi (PW2) reached the spot. The accused ran away after seeing them. The informant narrated the incident to her husband at home. The matter was reported to the police. The police registered the FIR (Ext.PW1/A). HC Veena Devi (PW5) investigated the matter. She visited the spot, prepared the site plan (Ext.PW5/A) and recorded the statements of witnesses as per their version. The challan was prepared and presented before the learned Trial Court after the completion of the investigation.

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3. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, a notice of accusation was put to him for the commission of an offence punishable under Section 354 of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined five witnesses to prove its case. Informant (PW1) narrated the incident. Barfi Devi (PW2) did not support the prosecution version. Basant Ram (PW3) came to the spot after hearing the informant's cries. Mathru Ram (PW4) signed the FIR. HC Veena Devi (PW5) investigated the matter.

5. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (CrPC), denied the prosecution case in its entirety. He claimed that the prosecution witnesses had falsely deposed against him and a false case was made against him. He did not produce any evidence in his defence.

6. Learned Trial Court held that the informant's testimony was duly corroborated by the testimonies of Basant Ram (PW3) and Barfi Devi (PW2). The informant had no reason to make a false statement against the accused. The act of the

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accused of offering ₹100/- to the informant, catching hold of her arm and asking her to accompany him to the jungle outraged the informant's modesty. Therefore, learned Trial Court convicted the accused of the commission of an offence punishable under Section 354 of IPC and sentenced him to undergo rigorous imprisonment for 1 year, pay a fine of ₹5,000/- and, in default of payment of fine, to undergo simple imprisonment for three months for the commission of the aforesaid offence.

7. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused filed an appeal which was decided by the learned Additional Sessions Judge, Ghumarwin, District Bilaspur, H.P. (camp at Bilaspur) (learned Appellate Court). Learned Appellate Court concurred with the findings recorded by the learned Trial Court that the informant's testimony was credible. The suggestions put to the informant that her husband had worked as a mason with the accused, and he had to take money from the accused, were denied and denied suggestions do not amount to any proof. The informant's testimony was corroborated by Barfi Devi (PW2) and Basant Ram (PW3), to whom the incident was narrated by the informant after they had reached the spot. The matter was reported to the police

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on the date of the incident, and the promptly lodged FIR corroborated the informant's statement. The offences against women are increasing, and a deterrent sentence had to be awarded. The sentence of 1 year cannot be said to be excessive. There was no infirmity in the judgment and order passed by the learned Trial Court. Hence, the appeal was dismissed.

8. Being aggrieved by the judgments and order passed by learned Courts below, the accused has filed the present revision asserting that the learned Courts below erred in appreciating the material on record. No person had seen the accused catching hold of the informant's hand. The plea taken by the accused that a false case was made because of the money dispute was probable, and the learned Courts below erred in rejecting this plea. Therefore, it was prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

9. I have heard Mr N.S. Chandel, learned Senior Advocate, assisted by Ms Shwetima Dogra, learned counsel for the petitioner/accused, and Mr Pawan Kumar Nadda, learned Additional Advocate General for the respondent/State.

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10. Mr N.S. Chandel, learned Senior Advocate for the petitioner/accused, submitted that the learned Courts below have not properly appreciated the material on record. Barfi Devi (PW2) and Basant Ram (PW3) have not stated that they had seen the accused catching hold of the informant, and this makes the prosecution case highly suspect. The defence taken by the accused that there was a money dispute between the informant's husband and the accused was duly proved on record and learned Courts below erred in rejecting this defence. Therefore, he prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

11. Mr Pawan Kumar Nadda, learned Additional Advocate General for the respondent/State, submitted that the informant's testimony was credible. There was no evidence of the fact that the accused had to take money from the informant's husband. A denied suggestion does not amount to any proof, and the informant's statement in the cross-examination was not sufficient to discard her testimony. Learned Courts below had taken a reasonable view and this Court should not re-appreciate the evidence while deciding the revision. Hence, he prayed that the present revision be dismissed.

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12. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

13. It was laid down by the Hon'ble Supreme Court in ***Kuntegowda v. Thurubaiah, 2026 SCC OnLine SC 1485,*** that a revisional Court does not act as an appellate court and it can only determine the correctness, legality and propriety of the findings and sentence recorded by the lower court. It was observed: -

> "**7.** Before parting, we would like to accentuate the revisional jurisdiction of the High Courts and the contours and inherent limits while exercising powers as a revisional authority. Section 397 of the Criminal Procedure Code, 1973 (now, Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023) encapsulates the power of High Courts and Sessions Courts to examine the correctness, legality or propriety of any order passed by an inferior criminal court. The said Section is extracted as hereunder:
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> > "**438. Calling for records to exercise powers of revision.**—(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond pending the examination of the record.
> >
> > *Explanation.* —All Magistrates, whether Executive or Judicial, and whether exercising original or appellate

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jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this subsection and of section 439.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them."

Discretion in the exercise of revisional jurisdiction should be exercised within the four corners of this section whenever there has been miscarriage of justice. However, while exercising power under this section, the Court does not act as an appellate Court and therefore, while considering the legality, propriety or the correctness of a finding or a conclusion, the revisional court does not and should not dwell upon the facts and the evidence of the case as an appellate Court. The court, in revision, considers the material only to satisfy itself about the correctness, legality and propriety of the findings, sentence and order recorded by the lower court, and should refrain from substituting its conclusion on an elaborate consideration of evidence, and the findings of the lower courts should not be reversed merely on the ground that an alternative view is possible on the facts of the case. In this case, such a position did not also emanate from the evidence on record.

7.1. This Court, in the ***State of Maharashtra v. Jagmohan Singh Kuldip Singh Anand, (2004) 7 SCC 659: 2004 SCC (Cri) 2003,*** observed that the High Court, in exercise of its revisional jurisdiction, cannot embark upon an in-depth roving re-examination of the oral evidence and medical evidence and come to a conclusion contrary to the consistent one reached by two courts below. In the facts of the present case, in the impugned judgment, the High

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Court gravely erred in upsetting the concurrent findings of conviction of the trial court and the Appellate Court by substituting its own conclusions and reasoning on the merits of the case and thereby erred in setting aside the well-reasoned and correct judgment and orders of the trial and appellate courts.

7.2. Upon perusal of the impugned judgment and order dated 06.10.2023, it is apparent that the High Court went into great detail into each of the testimonies, documents and merits of the case which could have been avoided, especially when the subject matter had come under its revisional jurisdiction. Instead, acting as an appellate Court, the High Court deemed it fit to go into the merits of the case, something which is generally impermissible unless a glaring contradiction is apparent on the face of the record. In ***State of Kerala v. Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 452: 1999 SCC (Cri) 275***, while considering the scope of the revisional jurisdiction of the High Court, this Court has laid down the following:

> "5. ... 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 a 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 a gross miscarriage of justice. On scrutinising the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation in coming

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to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the Respondent by reappreciating the oral evidence. ..."

7.3. The contours for exercise of revisional jurisdiction have been well settled by the judicial dicta of this Court wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower court unless:

i. The order or finding of the lower court is perverse, grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.

ii. The lower court has passed the impugned order after considering immaterial or irrelevant material or no material at all.

iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously.

7.4. This Court, in ***Sanjabij Tari v. Kishore S. Borcar, 2025 INSC 1158,*** in similar facts and circumstances wherein the High Court had reversed concurrent findings of conviction under Section 138 of NI Act, while setting aside the impugned order, observed as under:

"27. It is well settled that in exercise of revisional jurisdiction, the High Court does not, in the absence of perversity, upset concurrent factual findings. This Court is of the view that it is not for the Revisional Court to reanalyse and re-interpret the evidence on record. As held by this Court in ***Southern Sales & Services v. Sauermilch Design and Handels GMBH, (2008) 14 SCC 457***, it is a well-established principle of law that the Revisional Court will not interfere, even if a wrong order is passed by a Court having jurisdiction, in the absence of a jurisdictional error.

28. Consequently, this Court is of the view that in the absence of perversity, it was not open to the High Court in the present case, in revisional jurisdiction, to upset

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> the concurrent findings of the Trial Court and the Sessions Court."
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> **7.5.** In the facts of the present case, we find that the High Court has failed to highlight any reason or material satisfaction to the effect that there was any such glaring contradiction or perversity apparent on the face of the record so as to justify the exercise of the powers under revisional jurisdiction and thereby erred in interfering with the judgment and orders of the courts below. Therefore, the present appeal has to be allowed by setting aside the impugned order of the High Court. In view of the aforesaid discussion, we are of the view that the High Court committed an error in setting aside the order of conviction in exercise of revisional jurisdiction. No sufficient ground has been mentioned by the High Court in its judgment to enable it to exercise its revisional jurisdiction for setting aside the conviction.

14. The present revision has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

15. The informant (PW1) stated that she had gone to the jungle to fetch grass on 01.12.2009. She was returning to her home with a bundle of grass. The accused was working in his field. He called her. She stopped. The accused came to her, offered her ₹100/- and asked her to accompany him to the jungle. He caught hold of her arm. She shouted for help. Basant Ram (PW3) and Barfi Devi (PW2) reached the spot, and the accused ran away after seeing them. She narrated the incident to her husband and thereafter to the police. She stated in her cross-

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examination that the co-sharer had stopped the construction work of her house. She denied that the accused had worked as a mason and that she made a false complaint against the accused after the accused had demanded wages for the work done by him. Only Basant Ram (PW3) and Barfi Devi (PW2) had reached the spot, and other persons had gone to fetch grass from the jungle.

16. The suggestions put to the informant that the accused had to take money from her husband and she had filed a false case at the instance of her husband were denied by her. A denied suggestion does not amount to any proof and cannot be used for discarding the informant's testimony. Significantly, the accused has not claimed in his statement recorded under Section 313 of the CrPC that he had constructed the informant's house or that any money was payable to him. Therefore, learned Courts below had rightly rejected this defence suggested to the informant.

17. Barfi Devi (PW2) stated that she was cooking food. The informant shouted. She went to the spot. The informant was crying, and when she enquired about the reason, the informant told her that the accused had said wrong things to her. She was permitted to be cross-examined. She admitted that the

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informant was crying and had revealed on enquiry that she was stopped by the accused. She denied that the informant had disclosed that the accused had offered ₹100/- to the informant and asked her (the informant) to accompany him to the jungle. She denied that the accused had run away from the spot after the informant had raised hue and cry. She volunteered to say that the accused was working in his field. She admitted that the accused was her brother-in-law.

18. This witness has corroborated the informant's testimony regarding the fact that she had raised hue and cry after which Basant Ram (PW3) and Barfi Devi (PW2) had reached the spot. She was permitted to be cross-examined after she was declared hostile, but this fact by itself is not sufficient to discard her testimony. It was laid down by the Hon'ble Supreme Court in ***Dadu v. State of M.P., 2025 SCC OnLine SC 2733*** that the statement of a witness cannot be rejected because he was declared hostile. It was observed:

> **19.**....The High Court did not refer to the evidence of PW-4 simply on the ground that he had turned hostile, in ignorance of the law relating to appreciation of the evidence of a witness who has been declared hostile. A profitable reference may be made to the decision of this Court in ***State of U.P. v.***

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> ***Ramesh Prasad Misra (1996) 10 SCC 360: 1996 SCC (Cri) 1278*** wherein it was held that it is settled law that the evidence of a hostile witness would not be totally rejected if spoken in favour of either the prosecution or the accused. It would rather have to be subjected to closer scrutiny, and that portion of the evidence which is consistent with the case of the prosecution or defence may be accepted. The mere rejection of the evidence of PW-4 in the manner aforesaid is contrary to the law laid down by this Court.

19. It was laid down by the Hon'ble Supreme Court in ***Selvamani v. State, 2024 SCC OnLine SC 837,*** that the testimony of a hostile witness is not effaced from the record and the version which is as per the prosecution evidence or the defence version can be accepted if corroborated by other evidence on record. It was observed:

> "**9.** A 3-Judge Bench of this Court in the case of ***Khujji @ Surendra Tiwari v. State of Madhya Pradesh (1991) 3 SCC 627: 1991 INSC 153***, relying on the judgments of this Court in the cases of ***Bhagwan Singh v. State of Haryana (1976) 1 SCC 389: 1975 INSC 306, Sri Rabindra Kuamr Dey v. State of Orissa (1976) 4 SCC 233: 1976 INSC 204, Syad Akbar v. State of Karnataka (1980) 1 SCC 30: 1979 INSC 126***, has held that the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross-examined him. It was further held that the evidence of such witnesses cannot be treated as effaced or washed off the record altogether, but the same can be accepted to the extent their version is found to be dependable on a scrutiny thereof.

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10. This Court, in the case of ***C. Muniappan v. State of Tamil Nadu (2010) 9 SCC 567: 2010 INSC 553***, has observed thus:

> "**81.** It is a settled legal proposition that (***Khujji case***, SCC p. 635, para 6)
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> > '6... the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross-examined him. The evidence of such witnesses cannot be treated as effaced or washed off the record altogether, but the same can be accepted to the extent their version is found to be dependable on a scrutiny thereof.'
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> 82. In ***State of U.P. v. Ramesh Prasad Misra, (1996) 10 SCC 360,*** this Court held that (at SCC p. 363, para 7) evidence of a hostile witness would not be totally rejected if spoken in favour of the prosecution or the accused but required to be subjected to scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence can be relied upon. A similar view has been reiterated by this Court in ***Balu Sonba Shinde v. State of Maharashtra, (2002) 7 SCC 543, Gagan Kanojia v. State of Punjab, (2006) 13 SCC 516, Radha Mohan Singh v. State of U.P., (2006) 2 SCC 450, Sarvesh Narain Shukla v. Daroga Singh, (2007) 13 SCC 360*** and ***Subbu Singh v. State, (2009) 6 SCC 462***.
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> 83. Thus, the law can be summarised to the effect that the evidence of a hostile witness cannot be discarded as a whole, and relevant parts thereof, which are admissible in law, can be used by the prosecution or the defence."

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20. Therefore, the part of the testimony of this witness corroborated by other evidence can be looked into.

21. Basant Ram (PW3) stated that the informant was crying on 01.12.2009. He went to her and asked about the reason. She revealed that the accused had called her. The accused came near her and offered her ₹100/-. He stated in his cross-examination that the accused was working in his field. He admitted that no money was paid in his presence and the accused had not caught hold of the informant's hand.

22. The statement of this witness corroborates the informant's version. He had reached the spot immediately after the incident, and the informant had narrated the incident to him. The immediate narration of the facts after his arrival corroborates the informant's testimony that the accused had caught hold of the informant's hand, offered her ₹100/- and asked her to accompany him to the jungle.

23. The matter was reported to the police on the same day. The FIR (Ext.PW1/A) mentions the details of the incident as were narrated by the informant. The learned Courts below had rightly held that a promptly lodged FIR corroborated the

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informant's testimony. It was laid down by the Hon'ble Supreme Court in ***Krishnan v. State, (2003) 7 SCC 56: 2003 SCC (Cri) 1577; 2003 SCC OnLine SC 756,*** that a promptly lodged FIR rules out the possibility of deliberation and concoction and is entitled to a great weight. It was observed at page 62: -

> "**17.** The fact that the first information report was given almost immediately rules out any possibility of deliberation to falsely implicate any person. All the material particulars implicating the four appellants were given....."

24. Therefore, learned Courts below had rightly held that this part of the informant's testimony was believable.

25. Learned Courts below had rightly held that the act of the accused of offering money to the informant, catching hold of the informant's hand and asking her to go to the jungle proved that the accused had outraged the informant's modesty. It was laid down by the Hon'ble Supreme Court in ***Rupan Deol Bajaj v. Kanwar Pal Singh Gill, (1995) 6 SCC 194: 1995 SCC (Cri) 1059*** that any act suggestive of sex that would shock the decency of a woman would fall within the mischief of Section 354 IPC. It was observed at page 205:

> **14.** Since the word 'modesty' has not been defined in the Penal Code, 1860, we may profitably look into its

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dictionary meaning. According to ***Shorter Oxford English Dictionary*** (3rd Edn.), modesty is the quality of being modest and, in relation to women, means "womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct". The word 'modest' in relation to woman is defined in the above dictionary as "decorous in manner and conduct; not forward or lewd; shamefast". ***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".

15. In ***State of Punjab v. Major Singh [AIR 1967 SC 63: 1967 Cri LJ 1: 1966 Supp SCR 286],*** a question arose whether a female child of seven and a half months could be said to be possessed of 'modesty' which could be outraged. In answering the above question, Mudholkar, J., who, along with Bachawat, J., spoke for the majority, held that when any act done to or in the presence of a woman is clearly suggestive of sex according to the common notions of mankind, that must fall within the mischief of Section 354 IPC. Needless to say, the "common notions of mankind" referred to by the learned Judge have to be gauged by contemporary societal standards. The other learned Judge (Bachawat, J.) observed that the essence of a woman's modesty is her sex and from her very birth she possesses the modesty which is the attribute of her sex. From the above dictionary meaning of 'modesty' and the interpretation given to that word by this Court in ***Major Singh case [AIR 1967 SC 63: 1967 Cri LJ 1: 1966 Supp SCR 286]*** it appears to us that the ultimate test for ascertaining whether modesty has been outraged is the action of the offender such as could be perceived as one which is capable of shocking the sense of decency of a woman...."

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26. A similar view was taken in ***Tarkeshwar Sahu v. State of Bihar (Now Jharkhand)*, *(2006) 8 SCC 560 : (2006) 3 SCC (Cri) 556: 2006 SCC OnLine SC 1037*** wherein it was observed at page 576:

> **39.** So far as the offence under Section 354 IPC is concerned, intention to outrage the modesty of a woman or knowledge that the act of the accused would result in outraging her modesty is the gravamen of the offence.
>
> **40.** 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 is an attribute associated with female human beings as a class. It is a virtue which attaches to a female owing to her sex.
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> **41.** "Modesty" is given as,
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> > "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. [***Raju Pandurang Mahale v. State of Maharashtra, (2004) 4 SCC 371: 2004 SCC (Cri) 1259***] (SCC p. 377, para 13)
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> **42.** The ultimate test for ascertaining whether the modesty of a woman has been outraged, assaulted or insulted is that the action of the offender should be such that it may be perceived as one which is capable of shocking the sense of decency of a woman. A person slapping on the posterior of a woman in full public glare would amount to outraging her modesty, for it was not only an affront to the normal sense of feminine decency but also an affront to the dignity of the lady. [***Rupan Deol Bajaj v. Kanwar Pal Singh Gill, (1995) 6 SCC 194: 1995 SCC (Cri) 1059: AIR 1996 SC 309***]
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> **43.** The word "modesty" is not to be interpreted with reference to the particular victim of the act, but as an attribute associated with female human beings as a class.

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It is a virtue which attaches to a female on account of her sex. [***Major Singh Lachhman Singh v. State, AIR 1963 Punj 443 : (1963) 2 Cri LJ 390 (FB)]***

44. We deem it appropriate to reproduce the cases of various courts indicating circumstances in which the court convicted the accused under Section 354 IPC.

45. In ***State of Kerala v. Hamsa [(1988) 3 Crimes 161 (Ker)]*** it was stated as under: (Crimes p. 164, para 5)

> "What the legislature had in mind when it used the word modesty in Sections 354 and 509 of the Penal Code was protection of an attribute which is peculiar to woman as a virtue which attaches to a female on account of her sex. Modesty is the attribute of female sex, and she possesses it irrespective of her age. The two offences were created not only in the interest of the woman concerned, but in the interest of public morality as well. The question of infringing the modesty of a woman would of course depend upon the customs and habits of the people. Acts which are outrageous to morality would be outrageous to modesty of women. No particular yardstick of universal application can be made for measuring the amplitude of modesty of woman, as it may vary from country to country or society to society."

46. A well-known author, Kenny, in his book ***Outlines of Criminal Law [19th Edn., para 146, p. 203],*** has dealt with the aspect of indecent assault upon a female. The relevant passage reads as under:

> "In England by the Sexual Offences Act, 1956, an indecent assault upon a female (of any age) is made a misdemeanour, and on a charge for indecent assault upon a child or young person under the age of sixteen it is no defence that she (or he) consented to the act of indecency."

47. In ***State of Punjab v. Major Singh [AIR 1967 SC 63: 1967 Cri LJ 1],*** a three-Judge Bench of this Court considered the question—whether modesty of a female child of 7½

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months can also be outraged. The majority view was in the affirmative. Bachawat, J., on behalf of the majority, opined as under:

> "The offence punishable under Section 354 is an assault on or use of criminal force to a woman with the intention of outraging her modesty or with the knowledge of the likelihood of doing so. The Code does not define 'modesty'. What then is a woman's modesty?
>
> ... the essence of a woman's modesty is her sex. The modesty of an adult female is writ large on her body. Young or old, intelligent or imbecile, awake or sleeping, the woman possesses a modesty capable of being outraged. Whoever uses criminal force to her with intent to outrage her modesty commits an offence punishable under Section 354. 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, as, for example, when the accused with a corrupt mind stealthily touches the flesh of a sleeping woman. She may be an idiot, she may be under the spell of anaesthesia, she may be sleeping, she may be unable to appreciate the significance of the act; nevertheless, the offender is punishable under the section.
>
> A female of tender age stands on a somewhat different footing. Her body is immature, and her sexual powers are dormant. In this case, the victim is a baby, seven-and-half months old. She has not yet developed a sense of shame and has no awareness of sex. Nevertheless, from her very birth she possesses the modesty which is the attribute of her sex."

27. In the present case, the accused caught hold of the informant's hands, offered her ₹100/- and asked her to accompany him to the jungle. All these circumstances would shock the sense of decency of a woman and the learned Courts

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below had rightly held that the accused had outraged the informant's modesty.

28. The learned Trial Court had imposed a sentence of 1 year. The learned Appellate Court had rightly held that the offences involving women are on the rise and a deterrent view has to be taken. Considering the circumstances in which the offences were committed, the sentence of one year cannot be said to be excessive.

29. No other point was urged.

30. In view of the above, the present revision fails, and it is dismissed.

31. The present revision is disposed of, and so are the pending miscellaneous application(s), if any.

(Rakesh Kainthla)
Judge

2nd November, 2026
(Nikita)

High Court of H.P.

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