

**The Court of JM 1<sup>st</sup> Class, Ramgarh**  
**Present: Smriti Tripathi**  
**Judicial Magistrate**  
**24<sup>th</sup> May, 2023**  
**District: Ramgarh**  
**G.R. Case No. 1093/2017**  
**CNR No. JHRG030007802017**  
**Mandu(Kujju) PS Case No. 247/2017**

Informant	State (through Rajendra Kumar Mahto)
Represented By	<i>Smt. Manju Kachchap, Id. APP</i>
Accused	1. Vivek Kumar Mahto s/o Dharendra Mahto, male, aged about 20 years [A1] 2. Deepak Karmali s/o Kishore Karmali, male, aged about 19 years [A2] both r/o PS Giddi C, District Hazaribagh
Represented By	<i>Sri Deepak Ranjan, Ld. Advocate</i>

Date(s) of Offence	06.10.2017
Date of FIR	06.10.2017
Date of Chargesheet	31.10.2017
Date of framing of charge	31.01.2019
Date of Commencement of evidence	05.04.2019
Date when Judgment is reserved	24.05.2023
Date of Judgment	24.05.2023
Date of Sentencing Order, if any	N/A

Rank of the Accused	Name of the Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of detention undergone during trial for purpose of s. 428, CrPC
A1	Vivek Kumar Mahto	07.10.17	10.10.17	s. 354, IPC	Acquitted	None	N/A
A2	Deepak Karmali	07.10.17	10.10.17	s. 354, IPC	Acquitted	None	N/A

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

1. The afore-named accused persons (Hereinafter referred to as "**A1 & A2**") are facing trial for charges framed u/s. 354 of The Indian Penal Code, 1860 (Hereinafter referred to as the "**IPC**")

**PROSECUTION CASE**

2. The compendious case of the prosecution, as sourced from the written application of Rajendra Kumar Mahto (hereinafter referred to as the "informant") is that on 06.10.2017 at about 12:30PM, his nieces Priti Kumari and Sunita Kumari were returning from High School, Chringa (Chumba) to their home at Karimati. Meanwhile, A1 and A2, who were riding a Pulsar motorcycle bearing registration no. JH02AJ-0319 started chasing them and tried to molest them/behave lewdly. When the girls opposed them and started screaming, the informant and local people gathered and surrounded A1 and A2 and caught them after which they disclosed their names they were then handed over to Giddi-C police station. Hence, this case.

#### **FROM INVESTIGATION TILL TRIAL**

3. After investigation, the Investigating Officer submitted **charge-sheet** bearing no. 208/2017 dated 31.10.2017 against accused A1 & A2 for the offence u/s. 354 of IPC and thereafter, **cognizance** was taken under the same section by the then court on 12.02.2018.
4. After supplying police papers to A1 & A2, on 31.01.19 **charge was framed** u/s. 354 of IPC against A1 & A2 the contents were read-over to them in simple Hindi to which they pleaded not guilty and claimed to be tried. Thereafter, the case was fixed for evidence.
5. After closing the prosecution evidence on 28.04.2023, the material against A1 & A2 were put to them and their respective **statements** were recorded u/s. 313 of CrPC on same day in which they denied the material available against them and claimed to be innocent.
6. Thereafter, the defence was provided with an opportunity to adduce evidence on its behalf, if any but the Id. counsel for the defence submitted that he does not want to adduce any evidence. Upon his prayer, the defence evidence was closed and the matter was posted for arguments.

#### **ARGUMENTS ADVANCES**

7. The prosecution did not argue much due to lack of evidence.
8. The defence on the other hand argued that a false case has been lodged and no offence as alleged is made out from the deposition of PW01 only. It was submitted that the prosecution has failed to prove the guilt of A1 & A2 beyond reasonable doubt and they thus, deserve to be acquitted.

#### **POINTS FOR CONSIDERATION**

9. Now, the Court will consider as to whether the prosecution has been able to substantiate the charge u/s. 354 of IPC levelled against A1 and A2 beyond reasonable doubt or not.

9.1 Whether A1 and A2 used to follow the informant's nieces and contact, or attempt to contact them to foster personal interaction repeatedly despite a clear indication of disinterest by them?

### EVIDENCES

10. Before the court dwells to consider the points of determination as stated above, it would be apt to enlist the evidences brought in this case by all sides for the sake of brevity and proper reference, reference to only the relevant portions of which is made at relevant parts of this judgment, although they have all been perused by this court in detail. They are:

#### List of Prosecution/Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence
PW01	Dineshwar Mahto	Related Witness [Brother of Informant]

B. Defence:

Rank	Name	Nature of Evidence
--- nil ---		

#### List of Prosecution/Defence/Material Exhibits

A. Prosecution:

Sr. No.	Exhibit Number	Description
--- nil ---		

B. Defence:

Sr. No.	Exhibit Number	Description
--- nil ---		

### FINDINGS

11. Whether A1 and A2 used to follow the informant's nieces and contact, or attempt to contact them to foster personal interaction repeatedly despite a clear indication of disinterest by them?

11.1 PW01 has deposed in his examination-in-chief that the instant case was lodged by his brother Rajendra Mahto against A1 and A2. Further, that the alleged incident took place on 06.10.17 between 12-12:30 hours. He was then at his home, when, as his daughters Priti Kumar and Sunita Kumari were returning from Vivekanand School, Chumba Bhurkunda, A1 and A2 were following his daughters, riding on a Pulsar motorcycle and were using filthy language and also troubled the girls/behaved lewdly. As the girls raised an alarm, PW01 and some villagers

rushed towards them and on being chased, both A1 and A2 were apprehended and they disclosed their names and addresses. Thereafter, they were brought to the police station. After one day of the alleged incident, police recorded his statement. He claimed to identify both A1 and A2. In his cross-examination, he deposed that the police did not record his statement on the day of the alleged incident. He was unable to describe the exact distance between his home and place of the alleged incident. Further, that his daughters did not disclose the name of A1 and A2 to him. also, that he has not seen the alleged incident with his own eyes. Further, that when he reached the place of the alleged incident, 30-40 people gathered there and some villagers and chief of villagers reported the matter to the police station. Also, that his daughters did not give written complaint to the police station as they are literate and neither he nor his daughters put their signatures as witnesses. Further, they also did not affix their signatures on the seizure list as witnesses. Also, that the police did not take his signature on his statement. Finally, that he did not produce any academic or school related document to the police.

- 11.2 Apart from PW01, the prosecution did not produce any witness or other kind of evidence. The victims, being the prime witnesses were not produced. Now was the Investigating Officer or the informant.
- 11.3 Thus, the prosecution could not discharge its burden and shift the burden by proving the charges u/s. 354, IPC.
- 11.4 A1 and A2 therefore, stand discharged u/s. 354, IPC.

**ORDERED**

12 Thus, regard being had to the materials placed before this court and the discussion made above, this court is of the considered opinion that the prosecution has failed to establish that A1 and A2 committed the alleged offence and has thereby failed to substantiate the charge u/s. 354 of IPC. Hence, A1 & A2 are hereby **acquitted** in this case. They and their respective bailors stand discharged from the liabilities of their respective bail bonds.

(Dictated and corrected)

Pronounced by me in open court

**(Smriti Tripathi)**  
JO Code: JH02021  
JM 1<sup>st</sup> Class, Ramgarh  
Ramgarh, dated the 24<sup>th</sup> May, 2023

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