

**Present:**

Mr. Justice Raziuddin Ahmed

**Criminal Revision No.361 of 2007**

Chandan Ghos

----- Petitioner

**-Vs-**

The State

---- Opposite Party

Mr. Md. Zahangir Kabir, Advocate

----For the Petitioner

Mr. Md. Badrul Anwar, D.A.G

Mr. Md. Taherul Islam (Tawhid), D.A.G

---- For the State

**Heard on 28.01.2026, 18.02.2026,  
23.02.2026 and Judgment on 25.02.2026**

On an application filed under section 439 the Code of Criminal Procedure, 1898 Rule was issued calling upon the opposite party to show cause as to why the impugned judgment and order of conviction and sentence dated 15.11.2006 passed by the learned Additional Sessions Judge, Manikgonj in criminal Appeal No. 4 of 2004 affirming the judgment and order dated 02.12.2003 passed by the learned 1<sup>st</sup> Class Magistrate, Manikgonj in non G.R. Case No. 304 of 2000, now

non FIR Case No. 11 of 2000 corresponding to T.R. Case No. 167 of 2002 convicting the appellant petitioner and sentencing him to suffer 01(one) year simple imprisonment under Section 354 of the Penal Code should not be set aside and/or pass such other or further order or orders as this Court may deem fit and proper.

Facts relevant for disposal of the Rule is that on 11.05.2000 at about 10:00 p.m., the victim-informant, after watching television at the house of Nakul Halder, was returning to her house. When she reached near the bamboo grove adjacent to the house of Deen Bandhu Halder, the accused-petitioner allegedly caught hold of her, embraced her by force, thrust a piece of cloth into her mouth, laid her on the ground, and attempted to disrobe her. The victim somehow removed the cloth from her mouth and raised alarm. Hearing her cries, local persons, namely Shamezuddin, Deen Bandhu, Anando Halder and Paritosh Halder, rushed to the place of occurrence and apprehended the accused on the spot. Thereafter, he was produced before the local Union Council Chairman. Subsequently, a village shalish was held, in which the accused was found blameworthy and a sum of Tk. 28,500/- was

imposed upon him as compensation/fine. The accused-petitioner took 19 days' time for payment of the fine. As he failed to pay the amount within the stipulated time, the victim instituted the present case.

Upon receiving the complaint, the learned 1<sup>st</sup> Class Magistrate, Manikgonj took cognizance of the offence and, in due course, framed charge against the accused-petitioner under section 354 of the Penal Code. The charge having been read over and explained, the accused pleaded not guilty and claimed to be tried.

At the trial, the prosecution examined 6 (six) witnesses. The defence examined none.

Upon consideration of the evidence on record, the learned Magistrate, 1st Class, Manikganj, by judgment and order dated 02.12.2003, found the accused guilty under section 354 of the Penal Code and sentenced him to suffer simple imprisonment for 1 (one) year.

Challenging the judgment and order dated 02.12.2003 the accused-petitioner preferred Criminal Appeal No. 4 of 2004 before the Court of the learned Additional Sessions Judge, Manikganj. On hearing, the learned appellate Court, by

judgment and order dated 15.11.2006, dismissed the appeal and affirmed the conviction and sentence passed by the trial Court.

Being aggrieved thereby, the petitioner moved this Court this revisional application and this Court, by order dated 05.04.2007, issued the present Rule and enlarged the petitioner on bail.

Mr. Md. Zahangir Kabir, the learned Advocate appearing for the petitioner, submits that the prosecution failed to prove the charge beyond reasonable doubt. He contends that there is no independent eye-witness to the occurrence except the victim herself and that the other witnesses are interested witnesses who deposed on the basis of what they heard from the victim. He further submits that no medical evidence was produced in support of the alleged occurrence and that the case was instituted only because the petitioner failed to pay the amount fixed in the village arbitration. He lastly submits that, in any event, considering that the petitioner never misused the privilege of bail, has no previous criminal antecedent, and has already suffered part of the sentence and the ordeal of a long criminal proceeding, the sentence may be reduced.

On the other hand, Mr. Md. A.S.M. Badrul Anwar, the learned Deputy Attorney General, appearing for the State, opposes the Rule and submits that both the Courts below, upon proper assessment of the evidence on record, rightly found the petitioner guilty and passed the impugned judgments, calling for no interference in revisional jurisdiction.

I have heard the learned Advocates for the respective sides, perused the impugned judgments and the materials on record.

The core question for determination is whether the conviction of the petitioner under section 354 of the Penal Code suffers from any illegality, impropriety, misreading, or non-consideration of evidence so as to warrant interference in revision. Section 354 of the Penal Code punishes assault or criminal force to a woman with intent to outrage, or knowledge that such act is likely to outrage, her modesty.

It appears from the record that the victim gave a clear and specific account of the occurrence. Her evidence is that the accused forcibly caught hold of her, gagged her, threw her to the ground, and attempted to remove her clothes. Her alarm immediately attracted nearby persons, who came to the place of

occurrence and apprehended the accused. Although those witnesses were not eye-witnesses to the entire act from its very inception, their arrival at the place of occurrence immediately after the victim's hue and cry, and the fact that the accused was apprehended there, lend support to the victim's version.

It is true that no medical report was produced and that the other prosecution witnesses are not direct eye-witnesses to the assault itself. It is also true that their evidence is largely corroborative in nature. But the law does not require any particular number of witnesses for proof of a fact, and conviction can rest on otherwise trustworthy testimony. Section 134 of the Evidence Act expressly provides that no particular number of witnesses shall in any case be required for proof of any fact.

In the present case, the testimony of the victim is natural, consistent, and materially supported by the surrounding circumstances, namely, the immediate outcry, the arrival of local people at the place of occurrence, and the apprehension of the accused there from. The subsequent village shalish and the imposition of fine, though not a substitute for judicial proof, do form part of the surrounding circumstances brought on record.

Mere absence of medical evidence is not fatal in a case under section 354 of the Penal Code where the nature of the act complained of and the surrounding circumstances otherwise establish the offence.

The learned Advocate for the petitioner sought to argue that the institution of the case was motivated by the accused's failure to pay the amount fixed in arbitration. I am unable to accept that contention as sufficient to discredit the entire prosecution case. At best, that circumstance explains why the formal case was instituted after the village process failed; it does not, by itself, demolish the substantive allegation.

Upon an independent scrutiny of the evidence, I find that the Courts below committed no illegality in relying on the evidence of the victim, supported by the surrounding circumstances, in arriving at the finding that the petitioner used criminal force upon the victim with intent to outrage her modesty. Accordingly, the conviction of the petitioner under section 354 of the Penal Code is maintained.

However, as regards sentence, this Court finds substance in the alternative submission of the learned Advocate for the petitioner. The occurrence took place in the year 2000. The trial

ended in 2003, the appeal was dismissed in 2006, and the petitioner has faced the anxiety and rigour of criminal prosecution for a long period. It has also been submitted that he has no previous criminal antecedent, is not a habitual offender, did not misuse the privilege of bail, and has already undergone 23 days of imprisonment. Considering the long lapse of time, and the overall facts and circumstances of the case, ends of justice would be sufficiently met if the sentence is reduced to the period already undergone.

In the result, the Rule is discharged with modification of the sentence.

The conviction of the petitioner under section 354 of the Penal Code is hereby maintained. However, the sentence of 1 (one) year simple imprisonment is reduced to the period already undergone by him.

The petitioner is discharged from his bail bond.

Let the lower Court records be sent down at once.