



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE B. P. SHARMA
ON THE 21st OF JULY, 2026

CRIMINAL APPEAL No. 4095 of 2026

NITESH KAHAR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Anil Sakley - Advocate for the appellant.

Ms. Shikha Baghel - Panel Lawyer for the State.
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ORDER

This criminal appeal has been preferred under Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 assailing the judgment dated 20.04.2026 passed by learned Special Judge [SC/ST (Prevention of Atrocities) Act], Harda (MP) in SC (ATR) No.14/2022 whereby the appellant has been convicted for the offence punishable under Section 354D of Indian Penal Code and sentenced to undergo rigorous imprisonment for one year with fine of Rs.2,000/-.

2. The prosecution case, in brief, is that the victim, who was pursuing B.Sc. Second Year at Government College, Timarni, alleged that the appellant used to follow her while she went to and returned from college between 13.02.2022 and 28.02.2022. According to the prosecution, on



28.02.2022 the appellant again attempted to speak with the victim while she was proceeding towards the college, whereafter she informed her father and lodged the report on the same day. Upon completion of investigation, charge-sheet was filed. Learned trial Court, after appreciating the evidence of six prosecution witnesses and one defence witness, acquitted the appellant of the offence under the SC/ST Act and Section 506 IPC, but convicted him under Section 354D IPC. Aggrieved thereby, the present appeal has been preferred.

3. Learned counsel for the appellant submitted that the entire prosecution story is doubtful in view of the unexplained delay of fifteen days in lodging the FIR regarding the alleged incident dated 13.02.2022. Though, the victim alleged continuous stalking from 13.02.2022 onwards, the report was lodged only on 28.02.2022 without any plausible explanation. It is further submitted that the victim herself admitted during her cross-examination that she was in love with the appellant and after the appellant approached her father with a proposal for marriage, the present FIR came to be lodged. Learned counsel further argued that the defence produced photographs Ex.D/1 depicting cordial relations between the appellant and the victim, which probabilise the defence version but were not properly appreciated by the trial Court. It is also argued that there are material contradictions and omissions in the testimony of the victim. In particular, paragraph 15 of her cross-examination reveals that she had not stated in her previous statements that on 28.02.2022, the appellant had followed her. This omission strikes at the very root of the prosecution case because the conviction under Section 354D IPC



substantially rests upon the allegation of repeated following. It is further argued that there is no independent witness supporting the allegation of stalking and the prosecution has failed to establish the charge beyond reasonable doubt. Therefore, benefit of doubt ought to have been extended to the appellant.

4. *Per contra*, learned counsel appearing for the State supported the impugned judgment and submitted that the testimony of the victim is trustworthy. It is argued that conviction can safely be based on the sole testimony of the victim if it is found reliable. According to the State, minor omissions or discrepancies do not affect the core of the prosecution case. It is further submitted that the conduct of the appellant in repeatedly approaching the victim and following her sufficiently establishes the ingredients of Section 354D IPC and learned trial Court has rightly appreciated the evidence while recording conviction. It is, therefore, prayed that the appeal deserves to be dismissed.

5. Heard learned counsel for the parties and have carefully perused the material available on record.

6. The first circumstance which creates a serious doubt about the prosecution case is the unexplained delay in lodging the FIR. The prosecution alleges that the appellant started following the victim on 13.02.2022 and continued doing so till 28.02.2022. However, in paragraph 15 of her statement, the victim has admitted that she did not mention in her earlier statement recorded under Section 164 CrPC that the accused had



followed her on the 28.02.2022, therefore this fact is materially contradicted and prosecution failed to prove that the appellant has stalked the victim on 28.02.2022. The incident happened on 13.02.2022, but the FIR came to be registered on 28.02.2022. There is thus a delay of approximately fifteen days in reporting the initial incident. No satisfactory explanation has been offered by the prosecution as to why the alleged acts commencing from 13.02.2022 were not immediately reported either to the family members or to the police. Although delay in lodging the FIR is not invariably fatal, where the prosecution seeks conviction solely on the testimony of the victim and such delay remains wholly unexplained, it assumes considerable significance while appreciating the credibility of the prosecution story.

7. The evidence on record reveals that the victim, during her cross-examination, admitted that appellant was in love with the victim and he had approached her father with a proposal of marriage. It is only thereafter that the present FIR came to be lodged, lending credence to the defence plea that the prosecution was initiated after the marriage proposal was opposed by the victim's family. The conviction under Section 354D IPC is primarily based on the allegation that the appellant repeatedly followed the victim. However, in paragraph 15 of her cross-examination, the victim admitted that she had not stated in her earlier statement that the appellant had followed her on 28.02.2022.

8. Apart from the victim's testimony, there is no independent evidence corroborating the allegation of stalking. The defence has also relied upon photograph (Ex.D/1) indicating cordial relations between the parties and has



consistently asserted that the dispute arose only after the marriage proposal. Learned trial Court failed to properly appreciate these material admissions and omissions, which create a reasonable doubt regarding the prosecution case.

9. It is a settled principle of criminal law that suspicion, however strong, cannot substitute proof beyond reasonable doubt. Since the prosecution has failed to establish the charge under Section 354D IPC beyond reasonable doubt.

10. Accordingly, this criminal appeal is *allowed*. The judgment of conviction and sentence dated 20.04.2026 passed by learned Special Judge [SC/ST (Prevention of Atrocities) Act], Harda (MP) in SC (ATR) No.14/2022 (*State of MP Vs. Nitesh Kahar*) is set aside. The appellant is acquitted of the charge under Section 354D IPC. His bail bonds, if any, stand discharged and fine amount, if deposited, shall be refunded to the appellant.

11. The trial Court record be sent back along with copy of this judgment for necessary compliance.

Certified copy as per rules.

(B. P. SHARMA)
JUDGE