

GAHC010064832024



2026:GAU-AS:1523

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Crl. Petition. No. 362 of 2024

aged about 48 years,

Son o

Permanent residen

Uttar Pradesh,

and/or presently residing at IIT,

Guwahati

...PETITIONER

-VERSUS-

1. State of Assam,
Represented by the PP, Assam,
Gauhati High Court, Guwahati.

2.

Gujarat,

...RESPONDENTS

:::BEFORE:::

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

Advocate for the petitioner : Mr. Z. Kamar,Sr.Adv.

Advocate for the respondents : Mrs. D. Borpujari,
Legal Aid Counsel.
Mr.D.P. Goswami,
Addl. P.P., Assam.

Date on which judgment is reserved : **27.01.2026.**

Date of pronouncement of judgment : **05.02.2026.**

Whether the pronouncement is of the : No.

operative part of the judgment ?

Whether the full judgment has been : Yes
pronounced?

JUDGMENT & ORDER (CAV)

Heard Mr. Z. Kamar, learned Senior Counsel for the petitioner. Also heard Mr. D.P. Goswami, learned Additional Public Prosecutor for the State and Mrs. D. Borpujari, learned Legal Aid Counsel for respondent No. 2.

2. This petition has been filed seeking questioning of the proceedings of PRC No. 69/2024, now pending before the Court of the learned Judicial Magistrate First Class (JMFC), Kamrup at Amingaon.

3. The prosecution story of the case is that on 03.05.2023 an online complaint received at North Guwahati P.S through the Superintendent of Police, Kamrup where it was found that on 02.05.2023 complainant Miss

Gujrat sent e-mail to the DGP, Assam stating that she was working on her startup idea under Atal Innovation Mission at AIC GUSEC, Ahmedabad and she contacted Pro , IIT, Guwahati as her mentor.

Accordingly, she communicated him and on 18.05.2023 she came to IIT Guwahati to meet him. But he was very busy due to NERC program and so he offered to drop her to her friend's home at Panbazar by his car and will discuss on way. But, inside car, he said some weird things to her. He held her hand for several times and also watched her lines in her palm. He stopped the car in front of Kamakhya Temple and asked her to join her hands to pray Maa Kamakhya before beginning of their journey and thus he sexually harassed her. Hence the case.

4. Pursuant to the charge sheet, the learned JMFC, Kamrup, Amingaon took cognizance of the offence under Section 354 IPC in the aforesaid case.

5. Challenging the said impugned order as well as the entire proceedings, the instant petition has been preferred, whereby by Order dated 05.04.2024, further proceedings of the PRC Case No. 69/2024 pending in the Court of JMFC, Kamrup, Amingaon was stayed by this Court.

6. I have heard learned counsels for the parties.

7. Mr. Kamar, learned Senior Counsel for the petitioner submitted that the accused is a Professor of IIT, Guwahati in the Department of Chemical Engineering and also the Dean, Research & Development at IIT, Guwahati and is an expert in the field of cost effective biodegradable plastic.

8. The FIR of the instant case is dated 11.2.2023 and the same was registered on

05.05.2023, as North Guwahati Police Station Case No. 51/2023 under Section 354 IPC.

9. Taking the Court to the background of the case, learned Senior Counsel, with reference to the material on record submitted that the complainant had lodged an official complaint on 27.05.2022 against the petitioner upon the same allegations and after that an inquiry was instituted by way of departmental proceeding, wherein the complainant as well as the petitioner/accused were duly heard and thereafter the Inquiry Committee exonerated the petitioner of any wrongdoing. The decision of the proceeding was communicated to the complainant/victim on 24.11.2022 and thereafter, the FIR was lodged by her on 11.02.2023, that is almost two and a half months later as she failed to get a favourable outcome in the Departmental Inquiry against the petitioner. Thereafter, the victim's statement was recorded on 13.06.2023 under Section 164 CrPC and on the same day, the charge sheet was also filed.

10. It is submitted that the FIR has been lodged by the complainant due to vindictiveness as the petitioner declined to share his knowledge or support the start-up business proposed to be initiated by the complainant.

11. It is further submitted that the complainant/victim had on 18.05.2022 without any prior intimation or appointment come to the IIT-G Campus for the second time to meet the accused and convince him to become a partner in her start-up venture which the petitioner immediately refused. As far as the alleged occurrence is concerned, it is submitted that the petitioner was scheduled to travel to Guwahati in connection with the works of a conclave namely, the North East Researchers Conclave which was scheduled to be held from 20.05.2022 to 22.05.2022 at IIT-G and on the insistence of the complainant, the petitioner agreed to drop her at her friend's house in the city where she was staying. It is further submitted that no offence under Section 354 IPC is made out even on the face of the contents of the FIR and it is also a fact that the complainant did not raise any protest or avoided contact with the petitioner who had allegedly held her hand several times.

12. Learned Senior Counsel further submits that it is apparent from the factual matrix and

background of the case that the instant FIR has been lodged only in order to wreak vengeance upon the petitioner with ulterior motive as the complainant bore a serious grudge against the petitioner for not cooperating with her in her business venture. On the other hand, learned Additional Public Prosecutor as well as learned Legal Aid Counsel has submitted that from the contents of the FIR, a *prima facie* case under Section 354 IPC is made out against the petitioner and therefore, the interference of this Court is not called for.

13. I have given my anxious considerations to the rival submissions.

14. At this stage, it would be relevant to reproduce Section 354 IPC which reads as follows:-

“Section 354. Assault or criminal force to woman with intent to outrage her modesty.

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.”

15. From the aforesaid definition, the key elements thereof appear to be assault or use of criminal force which are again defined under Sections 350 IPC and 351 IPC respectively and furthermore the definition of the word “Force” is to be found in Section 349 IPC which is reproduced below:-

“Section 349. Force.

A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other’s body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other’s sense of feeling;

Provided that the person causing the motion, or change of motion, or cessation of

motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:

1. *By his own bodily power.*
2. *By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.*
3. *By inducing any animal to move, to change its motion, or to cease to move.”*

16. From a close reading of the aforesaid provision, it appears that in order for the action to qualify as force, it is necessary that the motion, change of motion or cessation of motion has to be caused to the person as a whole and not merely to any part of his body. In other words, unless and until the person has been forced to move or move in a direction different from which he was moving or forced to stop from moving if he was already moving, a person cannot be said to use force to another. Mere touching would not or could not be brought in within the ambit of the definition of force as defined under Section 349 IPC.

17. Therefore, unless the definition of force is satisfied, the question of use of criminal force as defined under Section 350 would naturally not arise.

18. Section 351 IPC defines assault as follows:-

“Section 351. Assault.

Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.”

19. Therefore, from the above definition, any gesture or preparation which is short of actual physical contact with the victim is required. When actual contact takes place, the action goes out of the ambit of the definition of assault.

20. As far as the facts of the present case are concerned, as reflected in the FIR as well as in the statement of the victim under Section 164 CrPC, the allegation is that the petitioner held the hand of the complainant/victim. No motion, change of motion or cessation of motion was caused to the person of the complainant/victim. Further, there is nothing in the contents of the FIR or the statement of the victim attributing any act on the part of the petitioner as would qualify as a gesture or preparation so, as to be termed as an assault.

21. Learned Senior Counsel appearing for the petitioner in course of his arguments has referred to a number of decisions. He has referred to ***Naresh Aneja Alias Naresh Kumar Aneja Vs. The State of UP & Another***, reported in **(2025) 2 SCC 604**, where the necessary ingredients of Section 354 IPC has been discussed by the Apex Court referring to the case of ***Raju Pandurang Mahale Vs. State of Maharashtra*** reported in **(2004) 4 SCC 371**.

22. In the aforesaid case, i.e ***Naresh Aneja @ Naresh Kumar Aneja (Supra)***, it was held by the Apex Court as follows:-

“12.2 While we hold the above observations as also the discussion made in Major Singh (supra) in the highest esteem and regard, it must not escape us that the observations were made in the societal context and milieu of that time and its import today should be interpreted in our present context. Reference in this regard may be made to observations by Bhat, J in Attorney General vs. Satish, (2022) 5 SCC 545.

“66..... These require an element of application of physical force, to women. The expression "modesty" was another limitation as older decisions show that such a state was associated with decorousness [Rupan Deol Bajaj vs. Kanwar Pal Singh Gill. (1995) 6 SCC 194: 1995 SCC (Cri) 1059] of women. This added a dimension of patriarchy and class. Section 354 (or any other provision of IPC) does not offer a statutory definition of the term "modesty" and over time, was interpreted broadly, contemporaneously with the developing and acknowledged role of women in society, to overcome its inherently colonial and patriarchal origins.....One cannot be unmindful of the circumstances in which these provisions were enacted by a colonial power, at a time, when women's agency itself was unacknowledged, or had limited recognition. Further, women in India were traditionally during the time of enactment of IPC, in the mid Nineteenth Century subordinated to the care of their fathers, or their husbands, or other male relatives.

They had no share in immovable property; notions of gender equality were unheard of, or not permitted. Women had no right to vote. Quite naturally, the dignity of women or indeed their autonomy, was not provided for.

67. The advent of the Constitution of India revolutionised - at least in law, all that. Regardless of gender, race, caste, religion or region, or all of the acknowledged sectarian and discrimination enabling barriers, everyone enjoyed equality of law, and equal protection of law (Article 14). Further, the provision in Article 15(1) prescribed discrimination by the State (in all its forms) on various grounds, including gender. Article 15(3) enabled the State to enact special provisions for women and children."

23. A reading of the FIR as well as the statement of the victim recorded under Section 164 CrPC in the present case does not reveal any direct allegation attributing intent to the petitioner and therefore, the element of *mens rea* required under Section 354 IPC is found to be missing in the facts of the present case. In a decision of the Bombay High Court i.e. ***Dilip Uttam Lomate Vs. the State of Maharashtra & Others***, reported in **2019 Supreme(Bom) 828**, it was concluded as follows:-

"It is to be seen that during the course of conversation, the applicant touched the hands of one of the fellow teachers of the school. It cannot be termed that it was a deliberate act on the part of the applicant for outraging the modesty of the complainant and it would be hard to believe that there was ill intention of the accused to commit such kind of offence or that he had knowledge that his act would outrage the modesty of the complainant."

24. In ***Pradeep Kumar Kesarwani Vs. The State of Uttar Pradesh and Another***, reported in **2025 Supreme (SC) 1667**, the Apex Court has held as follows:-

"16. It is by now well settled that summoning any person on the basis of a frivolous or vexatious complaint is something very serious. This would tarnish the image of the person against whom false, frivolous and vexatious allegations are levelled.

17. The duty of the court in cases where an accused seeks quashing of an FIR or proceedings on the ground that such proceedings are manifestly frivolous, or vexatious, or instituted with an ulterior motive for wreaking vengeance was delineated

by this Court in *Mohammad Wajid v. State of U.P.* reported as 2023 SCC OnLine SC 951: (2023) 5 Supreme 601 We may refer to the following observations:

'34. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.'"

25. Coming back to the facts of the present case, it is noticed that the petitioner was subjected to a full departmental enquiry with the participation of the complainant whereafter the allegations made against the petitioner were found to be baseless and it does prima facie appear that due to the unfavourable result in the departmental proceedings, the complainant has sought to lodge the FIR after two and a half months thereafter with a view to wreck

vengeance upon the petitioner which itself is an abuse of the process of the Court.

26. Furthermore having regard to the provisions of the law as already discussed above and considered in the light of the precedents cited above, it appears that no case under Section 354 IPC is made out against the petitioner.

27. Consequently, the impugned proceedings deserve to be quashed and it is ordered accordingly.

28. The proceedings in PRC case No.69/2024 pending before the Court of the learned Judicial Magistrate, First class, Kamrup, Amingaon stands quashed.

29. The Criminal petition stands allowed.

JUDGE

Comparing Assistant