

**IN THE MAGISTRATES' COURT
AT BA
CRIMINAL JURISDICTION**

Criminal Case No. 85/2024

BETWEEN: STATE

PROSECUTION

AND: VIJENDRA REDDY

ACCUSED

Counsel: Acting Sergeant 3443 Vaciseva Marawa for Police Prosecution
Accused unrepresented and in person.

Date of Hearing: 15 January 2026

Date of Ruling: 6 February 2026

JUDGMENT

Introduction

1. Mr. Vijendra Reddy ("the Accused") was charged with 1 count of Indecently Insulting and Annoying any Person, 1 count of Assault causing Actual Bodily Harm, 1 count of Breach of Domestic Violence Restraining Order and 1 count of Breach of Bail Conditions. The particulars of the offences are:

*Count 1
Statement of Offence*

Indecently Insulting and Annoying any Person: Contrary to Section 213(1)(b) of the Crimes Act 2009.

Particulars of Offence

Vijendra Reddy on the 16th day of February 2024 at Varadoli, Ba in the Western Division intruded upon the privacy of ***Vilisita Sawakula*** by forcefully hugging and trying to kiss her lips, likely to offend the modesty of the said ***Vilisita Sawakula***.

*Count 2
Statement of Offence*

Assault causing Actual Bodily Harm: Contrary to Section 275 of the Crimes Act 2009.

Particulars of Offence

Vijendra Reddy on the 16th day of February 2024 at Varadoli, Ba in the Western Division assaulted ***Vilisita Sawakula*** thereby occasioning her actual bodily harm.

*Count 3
Statement of Offence*

Breach of Domestic Violence Restraining Order: Contrary to Section 77(1)(a) of the Domestic Violence Act 2009.

Particulars of Offence

Vijendra Reddy on the 16th day of February 2024 at Varadoli, Ba in the Western Division having notice of the Domestic Violence Restraining Order No. 138/2023 by which he was bound, without reasonable excuse contravened section 27 of the order by assaulting **Vilisita Sawakula** the protected person.

Count 4

Statement of Offence

Breach of Bail Condition: Contrary to Section 25(1)(b) and Section 26(1) of the Bail Act No. 26 of 2022 and Bail Amendment Act No. 28 of 2012.

Particulars of Offence

Vijendra Reddy on the 16th day of February 2024 at Varadoli, Ba in the Western Division whilst being released on bail by Ba Magistrates Court vide Criminal Case Number 464/23 with the condition not to re-offend breached the said condition by re-offending.

2. On 3 April 2024, the Accused entered a Not Guilty plea for all Counts. The matter was subsequently adjourned for Trial.
3. On 15 January 2026, the date of Trial, Prosecution called 2 witnesses and thereafter closed its case. The Court found that there was a case to answer for all counts and then the Accused was explained the procedure under section 179 of the Criminal Procedure Act and it was also explained to him that he had a right to remain silent. The Court was informed that the Accused would give evidence and call one witness.
4. The Accused and his son gave evidence and thereafter the Accused closed his case. Both the Accused and Prosecution informed the Court that they would rely on the Court Record.
5. Having read the considered the evidence presented by Prosecution and Defence, I now pronounce my Judgment.

Burden of Proof

6. It is imperative to highlight that as a matter of law, the onus or burden of proof rests on the prosecution throughout the trial and it never shifts to the accused. There is no burden on an accused to prove his or her innocence as an accused is presumed to be innocent until proven guilty.
7. It is for the prosecution to prove the accused's guilt beyond a reasonable doubt. If there is doubt, so that the court is not sure of the accused's guilt, or if there be any hesitation in the court's mind on any of the ingredients or on the evidence led by prosecution, the accused must be found not guilty of the charges and accordingly acquitted.

Summary of Evidence

8. The Complainant testified that on 16 February 2024 went to the Accused's home where their 2 children were. She prepared tea for them and when the Accused arrived home the Complainant was then about to leave. She stated that she as she picked her bag, the Accused stopped her and told her not to leave. It was then that the Complainant stated that the Accused held her neck and pushed her and as she was trying to go outside, he then

pulled her into the room. The Complainant stated that she fell and upon standing up, the Accused tried to kiss her and hug her. The Complainant then said that she pushed the Accused away which led to him slapping her and in defence, she slapped him back.

9. At the time, the Complainant had a DVRO against the Accused being DVRO138/23 where the Court had granted section 27 standard non-molestation conditions for her protection against the Accused. The DVRO was then tendered as 'PEX1'.
10. The Bail Undertaking Form was tendered by consent and marked as 'PEX2'.
11. Dr. Samuela then testified that on 16 February 2024 she had medically examined the Complainant. As per her findings, Dr. Samuela testified that she had noted tenderness on the back part of the Complainant's head with bruising on her forearm and over the Complainant's left leg as well as swelling on her right wrist. Dr. Samuela informed that her professional opinion was that the injuries were from assault. The Medical Report of the Complainant was then tendered as 'PEX3'.
12. The Accused denies assaulting the Complainant and stated that when he returned home and saw the Complainant, he spread his arms wide and said "This is what God wants and let us come together". The Accused testified that the Complainant then pushed the children who were standing on either side of her and he then questioned her why she had done this. The Accused stated that the Complainant replied for the Accused to not come near her.
13. The Accused then testified that as he went closer to her, the Complainant went back and fell on the sofa which led to him grabbing her arm and telling her to stand up. The Accused then explained that it was then that the Complainant slapped him and told him not to come closer to her. The Accused further questioned the Complainant what was wrong with her and she told him not to question her. The Complainant then left but not before scratching her forearms.

Evaluation of Evidence

14. In evaluating the evidence, the Court must determine the testimonial trustworthiness of the evidence given by the witnesses based on the credibility and reliability of their evidence. In doing that, the Court should consider the promptness/spontaneity, probability/improbability, consistency/inconsistency, contradictions/omissions, interestedness/disinterestedness/bias, the demeanour and deportment in Court and the evidence of corroboration where it is relevant. (*vide State v Moroci Criminal Case No. HAC 161 of 2023 (26 April 2024)*).
15. For convenience, the Court will discuss Counts 1 and 2 together and then discuss Counts 3 and 4 separately.
16. The elements for the offence of Indecently Insulting or Annoying any Person are:
 - i. the accused
 - ii. intending to insult the modesty of any person
 - iii. intrudes upon the privacy of another person
 - iv. by doing an act of a nature likely to offend his or her modesty.

17. The elements for assault causing actual bodily harm are:

- i. the accused
- ii. commits an assault causing actual bodily harm
- iii. to another.

18. From the outset there is no issue with the identification of the Accused as the Accused admits that on 16 February 2024 when he returned home, the Complainant was at his home.

19. The Accused admits that he had tried to kiss the Complainant but, on her forehead, and that he had spread his arms to bring the Complainant and his 2 children who were standing on either side of the Complainant, in for a prayer. He further denies that he had assaulted the Complainant.

20. On the other hand, the Complainant in her evidence states that as she tried to leave the Accused's house, he had pushed her to prevent her from leaving and then pulled her into the room and tried to kiss her and hug her by force. When the Complainant had pushed the Accused that is when he slapped her.

21. The Court will need to evaluate the evidence by Prosecution whilst keeping in mind the evidence presented by the Accused insofar as they relate to the issue it is considering. The evidence presented by the parties will be evaluated to determine the testimonial trustworthiness of the evidence which will be done by evaluating the credibility – the correctness or veracity of the evidence and the reliability of evidence – the accuracy of the evidence - vide ***State v Prasad Criminal Case No. HAC 72 of 2021 (20 June 2024)***. In doing this, the Court should consider the promptness/spontaneity, probability/improbability, consistency/inconsistency, contradictions/omissions, interestedness/disinterestedness/bias, the demeanour and deportment in Court and the evidence of corroboration where it is relevant. (vide ***State v Moroci Criminal Case No. HAC 161 of 2023 (26 April 2024)***).

22. The Complainant testified that upon the Accused's return home on 16 February 2024, she went to pick up her bag to leave that the Accused stopped her and told her not to leave. The Complainant testified that the Accused held her neck and pushed her as she tried to go outside. He then pulled her into the room which caused her to fall. When she stood up, the Complainant stated it was then that he tried to kiss and hug her. The Complainant explained that in that moment, she pushed the Accused, which led him to slap her and, in her defense, she slapped him back. The Complainant also explained that she had injuries on her right shoulder, her wrist, elbow and the back of her neck. She then stated that when the Accused had pushed her, she had fallen on the arm of the sofa and had hit the back of her neck.

23. The Court is mindful that in evidence the Accused testified that as their 2 children were standing on either side of the Complainant, he had spread his arms wide and said "This is what God wants and let us come together" whilst trying to bring the Complainant and his 2 children together for a prayer. Further, in cross-examination, the Accused admitted that he had spoken to the Complainant to return home and that the Complainant had pushed him when he went towards her to kiss her.

24. Moreover, the Accused's son who gave evidence on behalf of the Accused testified that his mother had come to visit him and his sister and that when his father went to try and kiss his

mother's forehead, his mother refused and pushed him away. He also confirmed that when his father first entered the house, he tried to hug his mother.

25. It is apparent to the Court that the Accused's version of events and his son's version of events does not differ from that of the Complainant in that the Accused had tried to kiss and hug the Complainant. However, the Accused maintains that this was done in to bring everyone in for a prayer.
26. When considering whether the Accused attempting to kiss and hug the Complainant was done to bring everyone into a prayer, the Court is mindful of cross examination of the Complainant by the Accused. When the Accused suggested that he had tried to kiss her forehead and bring everyone together to pray, the Complainant stated that if he had asked to pray then it would have been okay but that he had forced himself on her.
27. The Complainant also agreed that the Accused tried to kiss and hug her in front of their children and this was confirmed by their son in his evidence. However, the Accused's son never stated that the Accused had tried to bring them all into a prayer. Rather, in his evidence he stated that as the Accused tried to kiss the Complainant, she refused and pushed the Accused away. Moreover, he stated in cross-examination that the Complainant did not like it when the Accused tried to kiss her.
28. When questioned by the Court how she had felt when the Accused had tried to kiss and hug her, the Complainant stated that it was bad to her as the Accused's actions were not good as he was forcing her. Had the Accused's attempt to bring his family into prayer been real, the Complainant's reaction would not have been to the extent of pushing him away as well as to the extent that their son could observe that the Complainant did not like what the Accused had done.
29. Thus, the Court finds that the Complainant's evidence that the Accused tried to kiss her and hug her forcefully and that she did not like what the Accused had done is credible and reliable and therefore truthful. Further, the Complainant's evidence in conjunction with the evidence of the Accused's son is credible and reliable and therefore truthful, given that he had confirmed that the Complainant pushed the Accused away when the Accused tried to kiss her and that the Complainant had not liked it when the Accused carried out this act.
30. Further, the Accused maintained that he did not assault the Complainant but rather any injuries she sustained were caused by her own action. However, to substantiate the injuries that the Complainant had received, Prosecution led the evidence of Dr. Samuela who tendered the Complainant's Medical Report as 'PEX3', which highlighted the Complainant having tenderness on the back part of her head with bruising on her forearm and over her left leg as well as swelling on her right wrist. Dr. Samuela opined that the injuries were from assault.
31. In cross-examination, the Accused questioned Dr. Samuela how she could differentiate if a person scratched him/herself or if the person was assaulted especially on the forearm, Dr. Samuela referring to the Complainant stated that the bruises she had were blunt whereas scratches would tear the surface on the skin and that the Complainant had bruises. When further questioned if a slap would cause injuries, Dr. Samuela stated that it does not always happen as it depends on how hard the person is slapped and how quickly the person comes to the Hospital.

32. Considering the Complainant's evidence in conjunction with Dr. Samuela's evidence, I find that the Complainant was being truthful with respect to the Accused pushing her which caused her to fall and hit the back of her neck; the Accused grabbing her wrists and the Accused slapping her.
33. Considering the Complainant's evidence with regards to the Accused assaulting her, the Court finds that the Complainant's evidence is credible and reliable and thus truthful. Further, the Complainant's evidence regarding being assaulted in conjunction with Dr. Samuela's evidence is credible and reliable given that the Doctor's evidence as well as the Medical Examination Report established the injuries sustained by the Complainant could not have been caused by the Complainant as suggested by the Accused.
34. Thus, the Court finds that the Accused's version of events does not create a reasonable doubt.
35. With respect to the offence of Breach of Domestic Violence Restraining Order, the elements are:
 - i. the accused
 - ii. having notice of a DVRO by which he/she is bound
 - iii. without reasonable excuse
 - iv. contravened the DVRO protecting the protected person.
36. The Complainant testified that she had taken out a DVRO against the Accused being DVRO138/23 where the Court had granted section 27 standard non-molestation conditions for her protection against the Accused. The DVRO was tendered as 'PEX1'.
37. In cross-examination, the Accused agreed that the DVRO had been served on him and that section 27 orders had been granted and that he could not assault or touch the Complainant.
38. The Court finds that by the Accused's admission that he had notice of the DVRO being DVRO 138/23 which had granted section 27 standard non-molestation orders for the protection of the Complainant and that he was bound by it as being proven beyond a reasonable doubt.
39. Further, as the Court has found that Prosecution has proven beyond a reasonable doubt that the Accused assaulted the Complainant which caused injuries to her as evident from the evidence of Dr. Samuela and the Court found that the Accused's version of events did not create a reasonable doubt, the Court finds that Prosecution has proven beyond a reasonable doubt that the Accused had notice of DVRO 138/23 by which he was bound and without reasonable excuse contravened section 27 of the order by assaulting the Complainant.
40. Now turning to the offence of Breach of Bail Condition. The elements of this offence are:
 - i. the accused
 - ii. who has been released on bail
 - iii. and who fails without reasonable cause
 - iv. breaches any condition of bail imposed by court commits an offence.

41. The Accused agreed at the time of this report being lodged against him, he had been on bail for Ba Criminal Case No. CF 464/23 as such the Bail Undertaking Form was tendered by consent.
42. As per the Bail Undertaking Form, the Court had granted the Accused bail on 9 November 2023 and one of the conditions as per the Bail Undertaking Form was for the Accused not to re-offend whilst on bail.
43. Given that the Court has found that Prosecution has proven beyond a reasonable doubt that the Accused assaulted the Complainant which caused injuries to her as evident from the evidence of Dr. Samuela and the Court found that the Accused's version of events did not create a reasonable doubt, the Court also finds that Prosecution has proven beyond a reasonable doubt that the Accused whilst on bail in Ba Criminal Case No. CF 464/23 with the condition not to re-offend, breached this bail condition when he assaulted the Complainant on 16 February 2024.

Determination

44. I find that Prosecution has discharged its burden in proving all the elements for 1 count of Indecently Insulting and Annoying any Person, 1 count of Assault causing Actual Bodily Harm, 1 count of Breach of Domestic Violence Restraining Order and 1 count of Breach of Bail Conditions beyond reasonable doubt.
45. I, therefore, find the Accused, Vijendra Reddy, guilty as charged for 1 count of Indecently Insulting and Annoying any Person, 1 count of Assault causing Actual Bodily Harm, 1 count of Breach of Domestic Violence Restraining Order and 1 count of Breach of Bail Conditions.



N. Mishra
Resident Magistrate