

MHAH010013472007



Presented on : 29.05.2007

Registered on : 29.05.2007

Decided on : 13.03.2026

Duration : Y. M. Ds.
18 09 12

Sessions Case No.122/2007

Exh. 130

Form No. XXXII

(Title Page of Judgment)

(Para 44(i) of Chapter VI of Criminal Manual)

<u>IN THE COURT OF SESSIONS</u> <u>AT : AHMEDNAGAR</u> (Presided over by A.M. Patil, Addl. Sessions Judge) (FIR No.I-167/2006 under Sections 395, 396, 342 of the Indian Penal Code, 1860) Police Station : Rahuri		
Prosecution		State of Maharashtra Through Rahuri Police Station, Dist. Ahmednagar.
Represented by		Mr. M.V. Diwane, Learned A.P.P. for the State
Accused	1.	Santosh Devidas Chavhan Age : 25 years, Occ. : Labour Resident of Gayran Pedhi, Ithur, Tal. Kalamba, Dist.Osmanabad.
	2.	Dagad @ Anil Bhimrao Shinde Age : 26 years, Occ. : Labour Resident of Mandva, Tal. Kalamba, Dist.Osmanabad.
	3.	Shankar Lagman Kale Age : 22 years, Occ. : Labour Resident of Kanherwadi, Tal. Kalamba, Dist.Osmanabad.
	4.	Rajendra Tatyaram Shinde(Acquitted vide Judgment dated 14.11.2025)
	5.	Bansi Subrao Kale Age : Major, Occ. : Labour Resident of Gayran Pedhi, Ithur, Tal. Kalamba, Dist.Osmanabad.

	6.	Idris Driver Age : Major, Occ. : Labour Resident of Mandva, Tal. Kalamba, Dist.Osmanabad.
	7.	Ramesh Kalyan Kale Age : Major, Occ. : Labour Resident of Gayran Pedhi, Ithur, Tal. Kalamba, Dist.Osmanabad.
	8.	Murli Saheba Shinde(Acquitted vide Judgment dated 14.11.2025)
	9.	Mishram @ Chichukya Shivram Kale Age : Major, Occ. : Labour Resident of Gayran Pedhi, Ithur, Tal. Kalamba, Dist.Osmanabad.
	10.	Ambadas Rama Shinde Age : Major, Occ. : Labour Resident of Mandva, Tal. Kalamba, Dist.Osmanabad.
Represented by		Adv. Mr. P. D. Gangarde for accused no.1 to 3, 5 to 7, 9 and 10 (LADCS Panel)

Part - B

(Para 44 (ii) of Chapter VI of Criminal Manual)

Date of offence	19.07.2006
Date of FIR	19.07.2006
Date of Charge-sheet	16.11.2006
Date of Framing of Charge	11.12.2025
Date of commencement of evidence	30.12.2025 (As per Section 356 of BNSS)
Date on which judgment is reserved	13.03.2026
Date of judgment	13.03.2026
Date of sentencing order, if any	As per final order.

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on bail	Offences charges with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of Section-428 of Cr.P.C.
1.	Santosh Devidas Chavhan	23.08.2006	12.12.2011	Under Section 395, 396, 342 of the Indian Penal Code.	Acquitted	----	----
2.	Dagad @ Anil Bhimrao Shinde	25.08.2006	21.06.2010	--do--	Acquitted	----	----
3.	Shankar Lagman Kale	25.08.2006	27.09.2010	--do--	Acquitted	----	----
5.	Bansi Subrao Kale	05.03.2009	06.10.2012	--do--	Acquitted	----	----
6.	Idris Driver	Absconded	--	--do--	Acquitted	----	----
7.	Ramesh Kalyan Kale	Absconded	--	--do--	Acquitted	----	----
9.	Mishram @ Chichukya Shivram Kale	03.02.2013	29.06.2015	--do--	Acquitted	----	----
10.	Ambadas Rama Shinde	Absconded	--	--do--	Acquitted	----	----

Part 'C'

(Para 44 (ii) of Chapter VI of Criminal Manual)

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**A. Prosecution**

RANK	NAME OF WITNESS	NATURE OF EVIDENCE
PW1	Hirabai Vishwanath Perne	Eye witness
PW2	Bharat Vitthal Kale	Panch witness

PW3	Sharada Suhas Perne	Eye witness
PW4	Janardan Baburao Hiwale	Panch witness
PW5	Dr. Vaishali Ganpat Lone	Medical witness
PW6	Mukhtar Meheboob Bagwan	Police witness

B. Defence Witnesses, if any

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS.
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C. Court witnesses, if any

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS.
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution**

Sr. No.	Exhibit No.	Description
1.	86	Deposition of PW1.
2.	87	Report.
3.	88	Deposition of PW2
4.	89	Spot Panchnama.
5.	95	Deposition of PW3
6.	98	Postmortem Report of Vishwanath Perne
7.	99	Postmortem Report of Suhas Perne
8.	102	Deposition of PW4
9.	103	Finger Print Panchnama
10.	104, 104-A	Memorandum Statement of the accused Shankar Kale and Panchnama
11.	105, 105-A	Memorandum Statement of the accused Dagadu @ Anil Bhimrao kale and Panchnama
12.	106, 106-A	Memorandum Statement of the accused Santosh Chavhan @ Suresh Kale and Panchnama
13.	107	Spot Panchnama

14.	108	Seizure Panchnama of receipt book.
15.	109	Identification Parade Panchnama
16.	112	Deposition of PW5
17.	113 and 114	Opinions of the doctor

B. Defence :

Sr.No	Exhibit Number	Description
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C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1.	124	Charge

D. Material Objects :

Sr. No.	Material Object Number	Description
1.	MO 1	Underpant and Baniyan of the deceased Vishwanath
2.	MO 2	Iron rod

JUDGMENT

(Delivered on 13.03.2026)

1. The accused persons are charged for the offence punishable under Sections 395, 396, 342 of the Indian Penal Code.

2. The case of prosecution in brief is as under:-

On 18.07.2006, at about 10.00 p.m., the informant and her family members went to sleep in the house after dinner. The husband of the informant had slept on the cot outside the house. At about 2.30 a.m. she heard the sound of the whistle of *Gurkha* and woke up. Thereafter within 15 minutes she heard the noise of the cot and the shouting of her husband from the outside, so she went towards the stairs. But as she noticed that the door of the dining hall was opened, she went towards the

bedroom of her son. At that time suddenly she saw 5-6 thieves there in the house with rods. Their faces were covered. They said, चूप बैठो, and assaulted the son of the informant by saying पैसे निकालो. They scattered the household articles and assaulted the informant with a rod on her head. They snatched the golden *poth* from the neck of the informant and she also gave them a ring and bentex bangles. They snatched the *mangalsutra*, and the ring of her daughter-in-law. They assaulted the informant, her husband, son, daughter-in-law and grand children and tied their hands and legs with a saree and went away. Thereafter, they rescued themselves and when the informant went to her husband, he had succumbed due to the injuries. The accused persons stole gold ornaments worth Rs.23,000/-.

3. On the basis of report of the informant the Rahuri Police Station registered an offence against the accused vide Crime No.I 167/2006. After completion of the investigation, PSO, Police Station, Rahuri filed a charge-sheet before the JMFC, Rahuri.

4. Since the offence punishable under Sections 395 and 396 of the Indian Penal Code are exclusively triable by the Court of Sessions, the learned JMFC, Rahuri committed the case to this Court.

5. As per the chargesheet, initially the police arrested the accused no.1 to 4 and other accused no.5 to 10 are shown to have absconded. Thereafter on 12.03.2009, the police filed supplementary chargesheet against the accused no.5 only and thereafter, on 10.08.2009 the police filed a supplementary chargesheet against the accused no.8 only. On 01.04.2013 the police filed supplementary chargesheet against the accused no.9.

6. Earlier to this, the trial was concluded only against the accused no.4 and 8. This Court acquitted them by way of judgment dated 14.11.2025. The accused no.1 to 3, 5 to 7, 9 and 10 did not appear before this Court. They were in abscondence. On 11.12.2025 this Court passed an order to proceed further with this case as per Section 356 of the Bhartiya Nagrik Suraksha Sanhita, 2023(in short BNSS) and thereby directed the

Office of Legal Aid Defence Counsel System to provide legal aid on behalf of the accused persons. Accordingly, on the same day the learned advocate Mr. P. D. Gangarde appeared. The charge at Exh.124 was framed against the accused persons. Thereafter the learned APP Mr. M. V. Diwane and advocate Mr. P. D. Gangarde filed pursis to recall the prosecution witnesses no.1 to 5 for cross-examination and also relied on the evidence recorded earlier. Thus, the trial against the accused persons is proceeded with as per Section 356(1) of the BNSS.

7. From the above facts, the following points arise for my consideration and I have recorded my findings thereon for the reasons hereinafter stated.

Sr.No.	Points	Findings
1.	Does the prosecution prove that the accused persons were the members of an unlawful assembly and in prosecution of the common object of it committed dacoity ?	..No.
2.	Does the prosecution prove that the accused persons committed dacoity of gold ornaments and cash amount worth Rs.23,000/- and in commission of the said dacoity committed murder of Vishwanath Namdeo Perne and Suhas Vishwanath Perne ?	..No.
3.	Does the prosecution prove that the accused persons wrongfully confined the informant and prosecution witnesses in their house ?	..No.
4.	What order ?	As per final order.

REASONS

As To Points No. 1 to 4 :

8. The evidence on all the points is interconnected to each other, hence they are taken together for discussion.

9. In the evidence of Hirabai Vishwanath Perne(PW1) she deposed that on 18.07.2006 at 10.00 p.m. she, her husband, son, daughter-in-law and grand children went to sleep. Her husband had slept

in the veranda. She heard some noise, but she fell asleep again. She heard some noise again, then she woke up and went towards the dining hall. There, she saw the wooden door in an opened condition. Then she went towards the bedroom of her son and daughter-in-law. There three persons entered holding an iron rod and a weapon like a sword. One of them assaulted her on head with the iron rod. They were saying, 'पैसा दो, पैसा दो'. She gave them *mangalsutra*, ring and bentex bangles. They also snatched the *mangalsutra* and ring from her daughter-in-law. They assaulted on her, her husband and son. In the said assault her husband died on the spot. They have all been tied with the saree. She went to the Rahuri police station and lodged the report Exh.87. When the police visited, she showed the spot of the incident to the police. The police prepared the spot panchnama. She further deposed that her son died on 21.07.2006 during treatment. She also deposed that police had called her to the Rahuri Tahsil, where she identified three persons. She also identified these accused as the same persons present before the Court. She also identified clothes MO1 and iron rod MO2 as the same.

During cross-examination by the learned advocate for accused persons this witness admitted that she could not see the faces of the persons entered in the house and their faces were masked with the cloth. She further admitted that she can not state that who killed her husband and she identified only Rajendra Tatyaram Shinde and Murli Saheba Shinde in Tahsil Office.

10. The prosecution further examined Bharat Kale(PW2). Initially he turned hostile, but during cross-examination, he admitted that the police prepared the spot panchnama Exh.89 in his presence.

11. Thereafter, the prosecution examined Sharada Perne(PW3). She deposed before the Court that on 18.07.2006 after taking dinner, all her family members went to sleep at 10.00 p.m.. Her father-in-law had slept outside. Her elder son and mother-in-law had slept in the hall. She, her husband and her younger son had slept in the bedroom. At about 3.30

a.m., her mother-in-law came and knocked on the door of her bedroom. She informed her that thieves have come. Her mother-in-law and husband tried to push the door, but they could not stop them. They assaulted her husband on the head with a *katawani*. He fell down and became unconscious. Thereafter, they tied them with the saree. They snatched her ornaments as well as ornaments of her mother-in-law. They also took two bags with them. Thereafter, people came there and they untied them. Her husband was in critical condition and therefore he was taken to the hospital. Her elder son had also sustained grievous injury. Thereafter, her husband died in the hospital at Pune. She further deposed that the police called them at Rahuri Tahsil for an identification parade. There, she identified the accused persons. She also identified the accused present before the Court as the same.

During cross-examination by the learned advocate for accused this witness also admitted that she can not say that who killed her father-in-law, there was complete dark in their house on the day of incident, the persons who entered in their house had masked their faces by the clothes, she identified two accused in the identification parade.

12. The prosecution also examined Janardan Hiwale(PW4). In his evidence, it came on record that on 19.07.2006, the Rahuri police called him for recording the panchnama. He went to the Rahuri factory. He saw the lock of the house was broken. The panchnama of the house Exh.103 was prepared and photos were taken.

13. He further deposed that on 28.08.2006, the police called him for recording of the panchnama. At that time, another panch namely Jadhav was present with him. In the police station, they were introduced with the accused namely 'Kale'. He gave a memorandum statement in their presence. The accused told that he would produce the gold which came to his share and thereby the memorandum panchnama Exh.104 was prepared. Thereafter, the said accused took them to the village Kalamb in the private vehicle. The accused showed his house. After entering the

house, the accused produced the golden beads from the sack kept in the house. The police seized those golden beads and prepared the seizure panchnama Exh.104-A.

14. He further deposed that, on the same day in the police station, they were introduced with the accused namely 'Shinde'. He gave a memorandum statement in their presence. The accused told that he would produce the gold which came to his share and thereby the memorandum panchnama Exh.105 was prepared. Thereafter, the said accused took them to the village Kalamb in the private vehicle. The accused showed his house. After entering the house, the accused produced the golden beads and *pali*/pendent and *katawani* from the sack kept in the house. The police seized those articles and prepared the seizure panchnama Exh.105-A. He identified MO3 *katawani*.

15. He further deposed that, on the same day in the police station, they were introduced with the accused namely 'Kale'. He gave a memorandum statement in their presence. The accused told that he would produce the gold which came to his share and thereby the memorandum panchnama Exh.106 was prepared. Thereafter, the said accused took them to the village Kalamb in the private vehicle. The accused showed his house. After entering the house, the accused produced the golden ring and beads from the sack kept in the house. The police seized those articles and prepared the seizure panchnama Exh.106-A.

During cross-examination by the learned advocate for accused this witness admitted that today he do not recollect the number of the private vehicle and the name of the spot.

16. The prosecution further examined Dr. Vaishali Lone(PW5). In her evidence it came on record that on 19.07.2016, she carried out an autopsy on the dead body of Vishwanath Namdev Perne. She prepared a Postmortem Notes Exh.90. The cause of death was due to injury to the skull and brain.

During cross-examination this witness admitted that she had given her opinion without seeing iron rod.

17. Lastly, the prosecution examined Mukhtar Meheboob Bagwan(PW6) who deposed that he arrested the accused Bansi Laxmansubarao Kale on 05.03.2009 and Murli Saheba Shinde on 18.07.2009.

During cross-examination this witness admitted that he himself had not arrested the accused persons.

18. In the present case in hand, these accused have been charged for the dacoity with murder. The prosecution has examined eye-witnesses namely Hirabai Perne (PW1) and Sharada Perne(PW3). Both the witnesses have deposed that police had called them to Rahuri Tahsil for an identification parade. There they identified the accused no.4 and 8 and therefore, they also identified the accused before the Court as the same. Why was the identification parade of the accused necessary? Because as per the version of these eye-witnesses, when the thieves entered in the house, their faces were covered. The incident had taken place at night hours and it was dark. Therefore, the police might have carried out the TIP in the Tahsil. If the identification parade of these accused have been carried out, then where is the TIP parade panchnama? The prosecution did not prove the said TIP parade panchnama and therefore, there is doubt on the testimonies of these witnesses.

19. Except the evidence of identification of these accused, no other incriminating evidence has come against these accused. So far as deposition of Bharat(PW2) is concerned, he is the panch witness to the spot panchnama(Exh.89). There is nothing incriminating against these accused in his evidence. The evidence of Janardan(PW4) is on the point of recording of memorandum statements of the three accused persons namely Santosh Devidas Chavhan @ Sursh Vishram Kale(A-1), Dagadu @ Anil Bhimrao Shinde(A-2) and Shankar Lagman Kale(A-3). He deposed that some golden articles were seized from their houses as well as

katawani was also seized from the house of one of these accused. All his testimony is relating to the accused no.4 and 8 only. There is nothing to connect his testimony with the accused present before the Court and therefore, his testimony is not much useful to the prosecution to prove the charge against these accused persons. Even, the testimony of Dr.Lone(PW5), it only proves the death of Vishwanath Perne.

20. To sum up, it can be concluded that the prosecution entirely failed to connect these accused with the charge framed against them and therefore, these accused persons are entitled to be acquitted. The other accused are in abscondence and therefore, it is necessary to preserve all the muddemal for their trial. Hence, I answer points no.1 to 3 in the negative and in answer to the point No.4, I proceed to pass the following order.

ORDER

1. Accused no.1 to 3, 5 to 7, 9 and 10 are acquitted of the offences punishable under sections 395, 396 and 342 of the Indian Penal Code, 1860 vide section 255 of the BNSS.
2. The muddemal properties MO1 and MO2 being worthless be destroyed after appeal period is over.

(Dictated and pronounced in open Court)

Date : 13.03.2026

(**A. M. Patil**)
Addl. Sessions Judge,
Ahmednagar
JO Code-MH02456