



Suit instituted on	29	06	2025
Registered on	29	06	2026
Decided on	08	08	2026
Duration	Y.	M.	D.

Exh.

**IN THE COURT OF JUDICIAL MAGISTRATE
FIRST CLASS (MUNICIPAL), AT RAJKOT**

Criminal Case No. 25118/2025

COMPLAINANT :-

THE STATE OF GUJARAT

Gandhigarm-2 (Uni.) Police Station,

CR NO. PART I, 11208003250569/2025, Dated 14/06/2025

VERSUS

ACCUSED :-

1) HIRENBHAI BALWANTBHAI MRUGESHWAR

Age : 36 Years, Occupation : Labourer

Address :

Parishram Awas Yojna, Block No. E-502,

B/s Sanskruti Party Lawns, Nr. Katariya Chowkdi,

Rajkot.

2) TARULATABEN

W/O

BALWANTBHAI

MRUGESHWAR

Age : 54 Years, Occupation : Household

Address :

1- Sundaram Park, Nr. Manda Dungra,
Aji Dam, Rajkot.

3) ANKITABEN W/O BHAVIKBHAI GANATRA

Age : 32 Years, Occupation : Household

Address :

Kuwadva Road, Opp. Shree Bunglow,
Shree Avenue Flat No. 102, Rajkot.

CHARGE: Punishable under Section 85, 115(2)
of B.N.S.

Appearance :-

Mr. R. N. Gosai Ld. A.P.P. on behalf of the prosecution.

Mr. V. G. Dodiya Ld. Adv. on behalf of the accused.

:-: J U D G E M E N T :-:

1. The facts emanating the present case is that the complainant had lodged the FIR against the accused. The complainant alleged that when the complainant demanded money from accused No. 1 for household expenses, accused No. 1 refused to give the money and assaulted the complainant. It is further alleged that accused Nos. 2 and 3 used to provoke accused No. 1 over petty issues, thereby causing quarrels between the complainant and accused No.

1. All the accused acted in furtherance of their common intention and subjected the complainant to physical and mental cruelty. During the course of investigation, sufficient evidence was found against the accused. Therefore, on the basis of the available evidence, complaint has been filed against the accused.
2. It is pertinent to note that as per Section 308 of B.N.S.S. the evidence of the prosecution was recorded in the presence of the Accused.
3. After the completion of the same, no prima facie incriminating evidence was found against the accused and therefore, he was not examined U/s. 351 of Bhartiya Nagrik Suraksha Sanhita, 2023.
4. The prosecution has produced the following oral as well as the documentary evidences:-

(A)ORAL EVIDENCE:-

Sr. No.	Details	Exh. No.
1.	Statement of the complainant Madhviben Hirenbbhai Mrugeshwar	13

(B)DOCUMENTARY EVIDENCES:-

Sr. No.	Details	Exh. No.
1.	Complaint	14

2.	Closing Pursis	15
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5. I have perused the entire evidence of the prosecution minutely. I have heard Learned in-charge A.P.P. for the prosecution and Learned Advocate for the accused at length. The arguments advanced are respectfully taken in consideration.
6. Following issues are framed for the determination of the present case:
- 1)Whether the prosecution proves beyond reasonable doubt, that the accused committed the offence under Section 85, 115(2) of B.N.S. ?
 - 2)What Order?
7. **Findings:**
- 1.In **NEGATIVE**.
 - 2.As per the **FINAL ORDER**.

REASONS

POINT NO. 1 & 2:

8. In the criminal justice delivery system in India, the burden of proving the guilt of the accused beyond the reasonable doubt is on the prosecution. The prosecution has to rely on such reliable and cogent evidences that the nexus between the accused and the crime alleged be established according to the settled position of law. Indian law is adversarial in

nature and therefore the accused is charged with no burden to prove his innocence. It is deemed that the accused is innocent until proved guilty. Therefore, the prosecution has to establish the guilt beyond reasonable doubt and if the prosecution fails to do the same, the benefit of doubt goes in the favour of the accused. ***Lord Denning in Bater v Bater, (1950) 2 All ER 458 at p. 459*** has observed that the doubt must be of a reasonable man and the standard adopted by a reasonable and just man for coming to a conclusion considering the particular subject matter. ***In Gurbachan Singh v Satpal Singh, AIR 1990 SC 209***, it is indicated that the conscience of the court can never be bound by any rule but that is coming itself dictates the consciousness and prudent exercise of the judgment. Reasonable doubt is simply that degree of doubt which would permit a reasonable and just man to come to a conclusion. Reasonableness of the doubt must be commensurate with the nature of the offence to be investigated. It is also to be borne in mind that in India the maxim '***falsus in uno, falsus in omnibus***' has no application.

9. Keeping in mind above settled principles of law, let us peruse the evidence on records. Prosecution has examined the complainant vide **Exhibit-13** wherein the complainant has mainly deposed that the complainant got married to Hiren Balwantbhai about eleven years ago, and two children were born out of the wedlock. After the marriage,

the complainant started residing at the matrimonial home. There were frequent disputes between the complainant, the husband, the mother-in-law, and the sister-in-law regarding household work. Therefore, the complainant filed the present complaint. The complainant has voluntarily arrived at an amicable settlement with the accused outside the Court. At present, the complainant is residing with the husband and children, and the husband has assured the complainant that he will take proper care of the complainant. Therefore, the complainant does not wish to proceed further with the present case or examine any additional witnesses. The complainant knows the accused. Thereafter, the complainant turned hostile and deposed that, it is not true that the complainant stated in the complaint that the husband did not like the complainant and that the mother-in-law used to provoke the husband against the complainant by saying that the complainant did not know how to cook, only knew how to spend money, always demanded money, and did not deserve to stay in the matrimonial home. It is not true that the complainant stated that the complainant did not wish to have children, or that the mother-in-law refused to give money when the husband asked for money for medicines and used to create quarrels between the complainant and the husband by saying that money should not be spent on private hospitals. It is not true that the complainant stated that the sister-in-law, Ankitaben, used to instigate or assault the husband whenever she came from her

matrimonial home. It is not true that the complainant stated that on 13/06/2025, when the complainant asked the husband for money for the children's school fees, the husband accused the complainant of wasting money, demanded a divorce, assaulted the complainant with a stick, asked the complainant to leave the matrimonial home and go to the parental home, and threatened to kill the complainant. It is not true that, despite having stated all the aforesaid facts in the complaint, the complainant is now giving false evidence on oath to protect the accused. Thereafter, the Ld. Advocate for the accused has cross-examined the complainant wherein the complainant deposed that it is true that complainant has arrived at an amicable settlement with the accused outside the Hon'ble Court. It is also true that the complainant now has no dispute or quarrel with the husband, the mother-in-law, or the sister-in-law.

- 10.** Perusing the evidence in total, panchnama has not proved of the panchnama which was brought on record. The evidence of the complainant is not corroborating to the injury therein. It is well settled law that only when the medical evidence corroborate with the oral evidences, then it can be taken into consideration. Hence, merely producing panchnama do not infer the guilt of the accused. Moreover, the prosecution has failed to establish that the complainant received injury from the beating given by the accused. It seems to this court that the prosecution has

failed to show the ingredients of Section 85, 115(2) of B.N.S against the accused.

11. For the reason stated above, this court is of the considered view that prosecution has not succeeded in establishing the case beyond reasonable doubt and therefore the Issue No.1 in negative and answer the Issue No.2 will follow the order:

-:: O R D E R ::-

- (1) Accused are hereby acquitted under Section 271(1) of B.N.S.S from the offence under Section 85, 115(2) of B.N.S.
- (2) An old surety of accused is hereby continue for the period of six month from the date of this order and if he is not alive, accused is hereby directed to furnish the fresh surety and personal bond of Rs. 5,000/- as per Section 437-A of Criminal Procedure Code, 1973.
- (3) Which muddamal have been seized in the case, the same is hereby destroy after the lapse of appeal period.

Order signed and pronounced in the open Court on this 08th day in the month of **August -2026**.

Date: 08/08/2026

Place: Rajkot

(Kamleshkumar Rameshbhai Gagnani)

JMFC (Municipal)

Rajkot

(UIC No.GJ01687)