



Suit instituted on	03	10	2025
Registered on	03	10	2025
Decided on	01	07	2026
Duration	Y.	M.	D.

Exh.

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

Criminal Case No. 49277/2025

COMPLAINANT :-

THE STATE OF GUJARAT

Gandhigarm-2 (Uni.) Police Station,

CR NO. PART I, 112080032250779/2025, Dated 21/08/2025

VERSUS

ACCUSED :-

1) MAHESH BECHARBHAI MAKWANA,

Age : 40 Years, Occupation : Labour

Address :

Block No. 302, Mahavir Appartment,

Vardhmannagar, Rajkot.

2) DIVYESH HARIBHAI SOLANKI,

Age : 32 Years, Occupation : Finance

Address :

Vardhmannagar, Opp. Vardhmanheights Building,
Bapa Sitaram Chowk, Atulayam Tenament,
Rajkot.

CHARGE: Punishable under Section 115(2),
352, 351(3), 125(A), 3(5) of B. N. S.
with Section 135 of the G. P. Act.

Appearance :-

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

Mr. C. D. Sankaliya Ld. Adv. on behalf of the accused.

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

1. The facts emanating in the present case is that the complainant had lodged the FIR against the accused. The complainant had told the accused not to give betel nuts (sopari) on credit to a pan vendor. Because of this, the accused got angry with the complainant. When the complainant was going on his motorcycle, the accused stopped him and threatened him, saying that if he did not stop giving betel nuts on credit, they would not allow him to do business in the area. They also abused him and threatened to kill him. After that, the accused hit the complainant with iron pipes, causing simple injuries. When the complainant's son came there, the accused also threw bricks at him and caused simple injuries. The

accused acted together and committed the offence. Therefore, on the basis of the evidence collected during the course of investigation, complainant filed a complaint.

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 complaint Vipulbhai Ravjibhai Kansagra	27
2.	Statement of the witness Sumit Vipulbhai Kansagra	29

(B) DOCUMENTARY EVIDENCES:-

Sr. No.	Details	Exh. No.
1.	Complaint	28
2.	Panchnama of Place	30

3.	Panchnama of Arrest	31
4.	Medical Certificate	32
5.	Arms Prohibition Notice	33
6.	Closing Pursis	34

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 115(2), 352, 351(3), 125(A), 3(5) of B. N. S. with Section 135 of the G. P. Act.?

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-27** wherein he has mainly

deposed that the alleged incident took place about seven to eight months ago. During the incident, the complainant received a call from Yashraj, who runs a shop, asking for betel nuts. The complainant told him that they were supplying betel nuts elsewhere and said they would come to his shop later. In the evening, when the complainant went to deliver the betel nuts, Yashraj said that he no longer wanted them and would order from somewhere else. After that, the complainant left on his motorcycle. When he reached Vardhman Nagar Street No. 8, Mahesh and another unknown person stopped him. Mahesh asked why betel nuts were not being supplied in that area and there was a verbal argument. Later, at Atal Sarovar Road, there was a minor dispute between the complainant, Yashraj, Mahesh, and the unknown person, during which the complainant suffered a minor injury on his leg. The complainant then called his son Sumit. When Sumit arrived, he also had a minor argument with Mahesh and the unknown person. The complainant has filed the complaint. The complainant has now reached a settlement with the accused persons and does not wish to pursue the case further. Thereafter, the complainant turned hostile and deposed that, it is not true that the complainant has stated in his complaint that when he reached Vardhmannagar Street No. 8, Mahesh was accompanied by an unknown person carrying an iron pipe, and that Mahesh threatened him by saying he would not supply to others and would harm his relatives and kill him. It is also not true that the

complainant abused him. It is further not true that Mahesh took the iron pipe from the unknown person and hit the complainant on his leg or threw it at his motorcycle, and that the unknown person also abused and assaulted the complainant. It is not true that near Atal Sarovar, Yashraj, Mahesh, and the unknown person assaulted the complainant with sticks and pelted stones, or that they threw bricks at the complainant's son Sumit when he arrived. It is further not true that, despite making such statements in his complaint, the complainant is giving false evidence under oath to protect the accused after settlement. Thereafter, the Ld. Advocate for the accused has cross-examined the complainant wherein the complainant deposed that it is true that the complainant had a common quarrel with the accused. It is also true that the complainant sustained injuries due to a fall. It is further true that the complainant now has no dispute or conflict with the accused.

Further the prosecution has examined the witness vide **Exhibit-29** wherein he has mainly deposed that the alleged incident took place about seven to eight months ago. During the incident, the witness's father received a call from Yashraj, the owner of Naklank Pan, asking for betel nuts. The witness's father informed him that they were supplying betel nuts to someone else and would come later. In the evening, when the witness went to deliver the betel nuts, Yashraj said that he no longer wanted them and

would call when required. After that, the witness went on his motorcycle. When he reached Vardhman Nagar Street No. 8, Mahesh and another unknown person stopped him. Mahesh asked why betel nuts were not being supplied to others, and there was a verbal argument over a common issue. Thereafter, at Atal Sarovar Road, the witness saw Yashraj, Mahesh, and an unknown person, and a minor dispute took place. The witness sustained a minor injury on his leg due to a fall. The witness then informed his father, and when his father went to the spot, Mahesh and an unknown person had a minor dispute with him. Due to this, the complainant filed a complaint regarding the incident. The witness has now reached a settlement with the accused persons and does not wish to pursue the case further. Thereafter, the complainant turned hostile and deposed that, it is not true that the witness has stated in his statement that when his father reached Vardhman Nagar Street No. 8, Mahesh was accompanied by an unknown person carrying an iron pipe, and that Mahesh threatened him saying he would not allow supply to others and would harm him and kill him. It is also not true that the witness abused her. It is further not true that Mahesh took the iron pipe from the unknown person and hit the witness on his leg or threw it at his motorcycle, and that the unknown person also abused the witness. It is not true that at Atal Sarovar, Yashraj, Mahesh, and the unknown person assaulted the witness with sticks and pelted stones, or that they threw bricks at the witness. It is further not true that

despite making such statements in his statement, the witness is giving false evidence under oath to protect the accused after settlement. Thereafter, the Ld. Advocate for the accused has cross-examined the complainant wherein the complainant deposed that it is true that the witness had a minor altercation with the accused. It is also true that the witness sustained injuries due to a fall. It is further true that the witness now has no dispute or altercation with the accused.

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 115(2), 352, 351(3), 125(A), 3(5) of B. N. S. with Section 135 of the G. P. Act 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 115(2), 352, 351(3), 125(A), 3(5) of B. N. S. with Section 135 of the G. P. Act
- (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 481 of B.N.S.S. 2023.
- (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 01st day in the month of **July - 2026**.

Date: 01/07/2026

Place: Rajkot

(Kamleshkumar Rameshbhai Gagnani)

JMFC (Municipal)

Rajkot

(UIC No.GJ01687)