



Suit instituted on	07	11	2025
Registered on	07	11	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. 52434/2025

COMPLAINANT :-

THE STATE OF GUJARAT

Gandhigarm-2 (Uni.) Police Station,

CR NO. PART I, 11208003250883/2025, Dated 22/09/2025

VERSUS

ACCUSED :-

1) CHIRAGBHAI JAYSUKHNBHAI KOTAK,

Age : 37 Years, Occupation : Business

Address :

“Mahadev” Nilkanthnagar – 6,

B/s Patel Girls School,, University Road,

Rajkot.

2) IMTIYAZ MAHOMMADBHAI KUNTHA,

Age : 22 Years, Occupation : Labour work

Address :

Popatpara, Street No. 3,
B/s Radhika Dairy,
Rajkot.

3) DILAWARBHAI ABDULBHAI JUNAY,

Age : 37 Years, Occupation : A.C. Repairing

Address :

Junction Plot, Bhistiwad Masjid Street,
Rajkot.

4) MOHIB JANMAHOMMADBHAI JUNAY,

Age : 24 Years, Occupation : A.C. Repairing

Address :

Junction Plot, Bhistiwad Masjid Street No. -7,
Loko Colony Main Road,
Rajkot.

CHARGE: Punishable under Section 351(3),
352, 115(2), 125, 3(5) of B.N.S.

Appearance :-

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

Mr. H. M. Sheth 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 that the complainant had parked his car in Street on the road. At that time, the accused persons came there and objected to the parking of the vehicle on the road. The accused persons engaged in verbal altercation with the complainant and abused him in filthy language. Thereafter, the accused persons assaulted the complainant and one witness by pushing and beating them, thereby causing bodily injuries. Further, the accused persons pelted stones and bricks towards the complainant's house, causing damage. The accused persons also threatened to kill the complainant.
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.	Details	Exh.
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No.		No.
1.	Statement of the complainant Neelbhai Ramdevbhai Odedra	16
2.	Statement of the witness Ramdevbhai Bhimabhai Odedra	18
3.	Statement of the witness Hetalben Neelbhai Odedra	19
4.	Statement of the witness Bhartiben Ramdevbhai Odedra	20

(B)DOCUMENTARY EVIDENCES:-

Sr. No.	Details	Exh. No.
1.	Complaint of the complainant	17
2.	Panchnama	21
3.	Closing Pursis	22

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), 3(5) 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-16** wherein he has mainly deposed that the alleged incident took place in the year 2025. On the day of the incident, the complainant and his family members were present at their residence. At that time, one Kotakbhai, whose full name is not known to the complainant, was sitting in a four-wheeler along with a woman and was repeatedly honking the horn and creating noise. Therefore, the complainant went outside and observed that the said Kotakbhai had opened the window of his vehicle and asked the complainant to move his four-wheeler. The complainant went near the said place and informed him that the vehicle would be moved. Thereafter, a general discussion took place between them. Later that night, the said Kotakbhai returned to the complainant's residence in his four-wheeler along with his friend and again started honking the horn loudly. Upon this, the complainant came outside, and a general dispute arose regarding the parking of a vehicle near the complainant's house. During the course of the said altercation, the complainant sustained minor injuries, and his wife also suffered minor injuries. Accordingly, the complainant

lodged the present complaint in respect of the aforesaid incident. Thereafter, the complainant turned hostile and deposed that, it is not true that the complainant stated in his complaint that Kotakbhai and his friend were travelling on a two-wheeler. It is the complainant's case that Kotakbhai started arguing with the complainant, abused him in filthy language, and assaulted him with a stick. When the complainant's wife, mother, and father intervened to rescue him, two other friends of Kotakbhai arrived and assaulted the complainant's father, as a result of which the buttons of his shirt were torn and he sustained an injury on his forehead. It is further the complainant's case that when his wife intervened, she was caught by her hair and pushed, resulting in swelling on the little finger of her right hand. One of Kotakbhai's friends also pushed the complainant's mother, causing her to fall to the ground. Thereafter, Kotakbhai threatened the complainant and his father with dire consequences and stated that if the vehicle was not parked properly in future, he would "take them away like the vehicle." Subsequently, the complainant's mother and wife took the complainant and his father inside the house and locked the door from within. At that time, Kotakbhai and his three friends threw stones and bricks at the complainant's house and created a disturbance. They further threatened that they would settle the matter later and thereafter fled from the scene in a four-wheeler and a two-wheeler. Therefore, it is not true that the complainant is deposing falsely on oath with a view to protect the

accused persons, particularly when all the aforesaid facts have already been specifically mentioned in the complaint lodged by the complainant. Thereafter, the Ld. Advocate for the accused has cross-examined the complainant wherein the complainant deposed that it is true that the complainant sustained minor injuries as a result of a fall. It is true that no person abused the complainant. It is true that the complainant no longer has any dispute, grievance, or conflict with the accused persons.

Further the prosecution has examined the witness vide **Exhibit-18** wherein he has mainly deposed that the alleged incident took place in the year 2025. On the day of the incident, the witness and his family members were present at their residence. At that time, one Kotakbhai, who resides in the same street as the witness, was sitting in a four-wheeler along with a woman and was repeatedly honking the horn and creating noise. Upon hearing the noise, the witness's son, Neel, came outside. The said Kotakbhai opened the window of his vehicle and asked that the four-wheeler be moved. Neel informed him that the vehicle would be moved, whereupon a general discussion took place between them. Thereafter, during the night hours, Kotakbhai returned to the witness's residence in a four-wheeler along with his friend and again started honking the horn loudly. Neel came outside, and the witness, his wife, and his daughter-in-law also came out. A general dispute arose regarding the parking of a vehicle

near their house. During the course of the said incident, the witness, his son Neel, his wife, and his daughter-in-law sustained minor injuries. Thereafter, witness's son lodged a complaint regarding the present incident. The witness is unable to identify the accused persons with certainty. Further, the witness has amicably settled the dispute with the accused persons and, therefore, does not wish to pursue the matter any further or seek examination of any additional witnesses in connection with the present case. Thereafter, the complainant turned hostile and deposed that, it is not true that the witness stated in his statement that Kotakbhai and his friend arrived on a two-wheeler and started arguing with the witness's son, Neel, and abused him in filthy language. It is further not true that when the witness intervened, two other friends of Kotakbhai arrived and assaulted the witness, resulting in the buttons of his shirt being torn and an injury being caused to his forehead. It is also not true that the witness stated that when his daughter-in-law intervened, she was caught by her hair and pushed, causing swelling on the little finger of her right hand. It is not true that the witness's wife was pushed and knocked to the ground by one of Kotakbhai's friends. It is further not true that Kotakbhai threatened to kill the witness and his son and stated that if the vehicle was not parked properly in future, he would "take them away like the vehicle." It is also not true that the witness's wife and daughter-in-law took the witness and his son inside the house and locked the door from within. It is not true that

Kotakbhai and his three friends threw stones and bricks at the witness's house or threatened to kill them. It is further not true that Kotakbhai and his three friends fled from the scene in a four-wheeler and a two-wheeler. Therefore, it is not true that the witness had stated any of the aforesaid facts in his statement. The witness further states that he is not giving false evidence on oath in order to protect the accused persons. Thereafter, the Ld. Advocate for the accused has cross-examined the complainant wherein the complainant deposed that it is true that the complainant sustained minor injuries as a result of a fall. It is true that no person abused the complainant. It is true that the complainant no longer has any dispute, grievance, or conflict with the accused persons.

Further the prosecution has examined the witness vide **Exhibit-19** wherein she has mainly deposed that the alleged incident took place in the year 2025. On the day of the incident, the witness and her family members were present at their residence. At that time, one Kotakbhai, whose full name is not known to the witness and who resided in the same street, was sitting in a four-wheeler along with a woman and was repeatedly honking the horn and creating noise. Upon hearing the noise, the witness's husband came outside and observed that the said Kotakbhai had opened the window of his vehicle and requested that the four-wheeler be moved. The witness's husband informed him that the vehicle would be moved,

whereupon a general discussion took place between them. Thereafter, during the night hours, the said Kotakbhai returned to the witness's residence in a four-wheeler along with his friend and again started honking the horn loudly. The witness's husband came outside, and the witness also came out. A general dispute arose regarding the parking of a vehicle near their house. During the course of the said incident, the witness and her husband sustained minor injuries accidentally, and the witness's mother-in-law also suffered minor injuries. Thereafter, the witness's husband lodged a complaint regarding the present incident. The witness is unable to identify the accused persons with certainty. Further, the witness has amicably settled the dispute with the accused persons and, therefore, does not wish to pursue the matter any further or seek examination of any additional witnesses in connection with the present case. Thereafter, the complainant turned hostile and deposed that, it is not true that the witness stated in her statement that Kotakbhai and his friend arrived on a two-wheeler and started arguing with her husband, abused him in filthy language, and assaulted him with a stick. It is further not true that when the witness and her mother-in-law intervened, two other friends of Kotakbhai arrived and assaulted her father-in-law, resulting in the buttons of his shirt being torn and an injury being caused to his forehead. It is also not true that the witness was caught by her hair and pushed, causing swelling to her right hand and neck. It is further not true that the witness's mother-in-law was

pushed and knocked to the ground by one of Kotakbhai's friends. It is not true that Kotakbhai threatened to kill the witness's husband and father-in-law and stated that if the vehicle was not parked properly in future, he would "take them away like the vehicle." It is also not true that the witness and her mother-in-law took her husband and father-in-law inside the house and locked the door from within. It is not true that Kotakbhai and his three friends threw stones and bricks at the witness's house or threatened to kill the family members. It is further not true that Kotakbhai and his three friends fled from the scene in a four-wheeler and a two-wheeler. Therefore, it is not true that the witness had stated any of the aforesaid facts in her statement. The witness further states that she is not giving false evidence on oath in order to protect the accused persons merely because a settlement has been arrived at between the parties, and that her testimony before the Court is true and correct. Thereafter, the Ld. Advocate for the accused has cross-examined the complainant wherein the complainant deposed that it is true that the complainant sustained minor injuries as a result of a fall. It is true that no person abused the complainant. It is true that the complainant no longer has any dispute, grievance, or conflict with the accused persons.

Further the prosecution has examined the witness vide **Exhibit-20** wherein she has mainly deposed that the alleged incident took place in the year 2025. On the day of

the incident, the witness and her family members were present at their residence. At that time, one Kotakbhai, whose full name is not known to the witness and who resided in the same street, was sitting in a four-wheeler along with a woman and was repeatedly honking the horn and creating noise. Upon hearing the noise, the witness's son, Neel, came outside. The said Kotakbhai opened the window of his vehicle and requested that the four-wheeler be moved. Neel informed him that the vehicle would be moved, whereupon a general discussion took place between them. Thereafter, during the night hours, the said Kotakbhai returned to the witness's residence in a four-wheeler along with his friend and again started honking the horn loudly. Neel came outside, and the witness, her husband, and her daughter-in-law also came out. A general dispute arose regarding the parking of a vehicle near their house. During the course of the said incident, the witness, her son Neel, her husband, and her daughter-in-law sustained minor injuries. Thereafter, the witness's son, Neel, lodged a complaint regarding the present incident. The witness is unable to identify the accused persons with certainty. Further, the witness has amicably settled the dispute with the accused persons and, therefore, does not wish to pursue the matter any further or seek examination of any additional witnesses in connection with the present case. Thereafter, the complainant turned hostile and deposed that, it is not true that the witness stated in her statement that Kotakbhai and his friend arrived on a two-

wheeler and started arguing with the witness's son, abused him in filthy language, and assaulted him with a stick. It is further not true that when the witness and her husband intervened, two other friends of Kotakbhai arrived and assaulted her husband, resulting in the buttons of his shirt being torn and an injury being caused to his forehead. It is also not true that the witness's daughter-in-law was caught by her hair and pushed. It is further not true that the witness sustained swelling on her right hand and neck or that she was pushed and knocked to the ground by one of Kotakbhai's friends. It is not true that Kotakbhai threatened to kill the witness's son and husband and stated that if the vehicle was not parked properly in future, he would "take them away like the vehicle." It is also not true that the witness's daughter-in-law took the witness and her husband inside the house and locked the door from within. It is not true that Kotakbhai and his three friends threw stones and bricks at the witness's house or threatened to kill the family members by stating, "Today, we will finish you off." It is further not true that Kotakbhai and his three friends fled from the scene in a four-wheeler and a two-wheeler. Therefore, it is not true that the witness had stated any of the aforesaid facts in her statement. The witness further states that she is not giving false evidence on oath in order to protect the accused persons merely because a settlement has been arrived at between the parties and that her testimony before the Court is true and correct. Thereafter, the Ld. Advocate for the accused has cross-

examined the complainant wherein the complainant deposed that it is true that the complainant sustained minor injuries as a result of a fall. It is true that no person abused the complainant. It is true that the complainant no longer has any dispute, grievance, or conflict with the accused persons.

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 351(3), 352, 115(2), 125, 3(5) 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:

∴ ORDER ∴

- (1) Accused are hereby acquitted under Section 271(1) of

B.N.S.S from the offence under Section 351(3), 352, 115(2), 125, 3(5) 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 01st day in the month of **July -2026**.

Date: 01/07/2026

Place: Rajkot

(Kamleshkumar Rameshbhai Gagnani)

JMFC (Municipal)

Rajkot

(UIC No.GJ01687)