

MHAH010015552023



Received on : 13/03/2023

Registered on : 13/03/2023

Decided on : 25/02/2026

Duration : Y. M. Ds.
02 10 12

PART 'A'

IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
AHMEDNAGAR, DISTRICT- AHMEDNAGAR.
(Presided over by Smt. Manisha D. Charate-Hampe)

SESSIONS CASE NO.118/2023
(CNR No : MHAH010015552023)

EXH. 34

FIR no. I-430/2020

CRIME : Offence punishable under sections 353, 294, 504, 506 of the Indian Penal Code, 1860.

Police Station : Kotwali Police Station,
Tal. and Dist. Ahmednagar.

Prosecution

State of Maharashtra
Through Kotwali Police station ,
Tal. and Dist. Ahmednagar.

REPRESENTED BY

A.P.P. Shri. M. P. Kulkarni.

ACCUSED

Prakash Baburao Bhaganagare,
Age : 44 Yrs., Occ. : Business,
R/o.Anandnagar, Shivtirtha Niwas, Station Road,
Tal. and Dist. Ahmednagar.

REPRESENTED BY

Advocate Shri. M. B. Tawale.

PART 'B'

Date of Offence	20/02/2020
Date of FIR	21/02/2020
Date of Charge-sheet	22/07/2020

Date of committal order	30/01/2023
Date of framing of charges	24/07/2025
Date of commencement of evidence	21/11/2025
Date on which judgment is reserved	---
Date of the Judgment	25/02/2026
Date of the sentencing order, if any	---

Accused Details

Rank of accused	Name of the accused	Date of arrest	Date of release on bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of detention Undergone during trial for purpose of section 428 Cr.PC.
1.	Prakash Baburao Bhaganagare	13/03/2020 Nominal arrest.	13/03/2020	Sections 353, 294, 504, 506 of IPC, 1860.	Acquitted	--	---

: J U D G M E N T : **(Delivered on 25/02/2026)**

The accused is facing trial for the offences punishable under sections 353, 294, 504, 506 of the Indian Penal Code, 1860.

2. It is the prosecution's case that on 20/02/2020 the informant Bapu Kashinath Phalke as usual went on his duty of supplying/ releasing water. After releasing water at Sarasnagar area at about 11:30 pm he went at Nilkanth Society Water valve to supply the water in Sarasnagar to Sandipnagar area. At that time accused came there and started threatening the informant by saying that why he kept his mobile off. That time informant trying to explain that his mobile battery was discharged, that time accused abuses the informant in filthy language and threatened that his limbs will be fractured, also threatened that he will instigate the females of the Ward to beat him by stripping his clothes, I will see how you perform your duty and rushed on his person with intention to beat him. But people gathered have given understanding to the accused and therefore accused went from there. Thereafter, informant by giving the

information about the incident to his senior officer went to the Kotwali Police Station and lodged the report against the accused.

3. The police registered Crime No.I-430/2020 against the accused for the offences punishable under sections 353, 294, 504, 506 of The Indian Penal Code. The investigation was handed over to ASI H. M. Bhangale. He recorded statements of witnesses. He visited the spot of incident and prepared its panchanama. After completion of investigation, charge-sheet was submitted against the accused in the court of Judicial Magistrate First Class, Ahmednagar for above mentioned offences.

4. The learned Judicial Magistrate First Class, Ahmednagar committed the case to this court. Charge was framed against the accused for the offences punishable under section 353, 294, 504, 506 of The Indian Penal Code vide Exh.7. It's contents were read over and explained to the accused in Marathi. The accused pleaded not guilty and claimed to be tried. After completion of prosecution evidence, statement of accused under section 313 of the Code of Criminal Procedure was recorded. His defence is of total denial and false implication.

5. In order to prove the guilt of accused prosecution has examined informant Bapu Kashinath Phalke (PW.1) Exh.13, Sonu Bapusaheb Phalke (PW.2) Exh.15, Javed Ibrahim Shaikh (PW.3) Exh.21 and Hemant Madhukar Bhangale (PW.4) Exh.24. The prosecution has further relied on report Exh.14, order of investigation Exh.25, spot panchanama Exh.26, portion mark 'A' from the statement of witness Sonu Bapu Phalke Exh.27, Notice given to informant Exh.28, letter given to Commissioner of Municipal Corporation Exh.29 and letter given to the Tahsildar Exh.30.

6. The points for determination along with findings thereon are as

under :-

Sr. No.	POINTS	FINDINGS
1.	Does prosecution prove that the accused assaulted or used criminal force to the informant a public servant with intent to prevent or deter him from discharging his duty as a public servant?	...No.
2.	Does prosecution prove that accused uttered words, abused in filthy language in public place and that it caused annoyance to the informant when he was performing his duty as a public servant?	...No.
3.	Does prosecution prove that accused intentionally insulted the informant by abusing and thereby gave provocation intending or knowing it to be likely that such provocation will cause him to break public peace or commit any other offence?	...No.
4.	Does prosecution prove that accused committed criminal intimidation by threatening the informant with intent to cause alarm to him?	...No.
5.	What order ?	...As per final order.

: REASONS :

As to point nos. 1 to 5 -

7. The prosecution evidence on all these points is common, hence they are taken together for the discussion.

8. Heard the learned APP and the learned Advocate for the accused. It is submitted on behalf of prosecution that the evidence of prosecution witnesses is consistent, the guilt of accused is established. Hence, accused be punished. On the other hand the Ld. Advocate for the accused submitted that there is no evidence on record to show that prosecution witness was present on the spot in discharge of his duty. The evidence of prosecution witnesses is not trustworthy and liable to be

discarded. It is submitted that prosecution failed to establish the guilt of accused with which he was charged. Hence, he has prayed to acquit the accused.

9. In order to prove the offence against the accused the prosecution has to prove that the accused used criminal force and assaulted the informant who is public servant to deter him from discharging his duty. The ingredients of force, criminal force and assault are as follows -

“Section 349 :- *Force – A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other’s body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other’s sense of feelings.*

Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described.

First – By his own bodily power.

Secondly – By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly – By inducing any animal to move, to change its motion, or to cease to move.

Section 350 – Criminal force - *Whoever intentionally uses force to any person without that person’s consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.*

Section 351 - Assault - *Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.*

Explanation - Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Section 353 - Assault or criminal force to deter public servant from

discharge of his duty - Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. ”

10. In view of the above said provisions, I have to appreciate the evidence on record. Accordingly, the prosecution has to prove that the informant is public servant, at the time of incident he was performing official duty, and the accused has assaulted the informant with intention to deter him from discharging his duty.

11. The informant Bapusaheb (PW.1) stated that he was working with Municipal Corporation as the worker on duty of releasing water from the valve in the Sarasnagar area. On the day of incident 20.02.2020 he was on duty since 12.00 noon to 11.30 p.m. Due to continuous phone calls from the people, his mobile battery was discharged. At about 11.30 p.m. he went to Sarasnagar for releasing water from Mahatma Phule Chowk. At that time one corporator Bhaganagare i.e. accused came there and asked him that why he had kept his mobile off deliberately and started abusing him. When the informant shown his mobile to the accused, he not verified the fact of discharging battery but started abusing in filthy language and threatened him. Thereafter, he went on his work and on next he filed the complaint Exh.14.

12. The informant in his cross-examination has admitted that there was altercation on the ground of releasing water and again stated that it was occurred on the ground of keeping mobile off. He further admitted that, the accused is corporator and people from that area used to call him for water and therefore the accused used to call the informant. The said incident occurred due to misunderstanding of keeping mobile phone off,

the accused never obstructed him during his period of work in that area. He further stated that, he had given report on the say of his senior Kakade and by reading the said report he deposing before the court. He is working as a labour in the Corporation since the year 2000 and there is no change in his duty till the date. He could not state as to whether he was on medical leave since 20.02.2020 to 28.02.2020.

13. The evidence of informant is totally contradictory to his complaint Exh.14. His evidence before the court regarding mobile phone is not found place in the said complaint. He has not stated exact words of abusing or any filthy language used by the accused. Moreover, in his cross-examination he supported the case of accused. His evidence is inconsistent with the complaint.

14. The next witness of a prosecution is son of the informant i.e. Sonu (PW-2). He has not supported the prosecution case. He only stated that there were some altercation at the work place of his father as stated by his father. He has no personal knowledge about the incident. The panch witness Javed (PW-3) also not supported the prosecution.

15. The last witness of prosecution is investigating officer Shri. API Bhangale (PW-4). He stated about investigation that is collection of evidence, but there is no documents showing that the informant is public servant. He has stated that he issued letter to the commissioner of Corporation regarding presency register of the informant, but the same is not on record. Therefore, mere contention of the informant that he was discharging his duty as a public servant on the day of incident and the accused assaulted him, is not sufficient to hold the accused guilty. Moreover, his intention to deter the public servant is not proved by the prosecution. There is no evidence showing that the informant is public servant and accused was knowing the said fact and therefore, he assaulted

the informant with intention to deter him from discharging his duty as a public servant.

16. Considering the offences leveled against the accused it was necessary for the prosecution to prove that accused used criminal force to informant Bapusaheb (PW.1) who was public servant and discharging his duty as such. As well as the force was used to prevent or deter him from discharging the duty. Considering the evidence of informant Bapusaheb (PW.1) and other witnesses, the same has not been proved by the prosecution.

17. In respect of committing criminal intimidation the evidence is short to attract ingredients of Section 506 of the Indian Penal Code. Same thing can be said in respect of intentional insult of the informant by abusing him. Informant Bapusaheb (PW.1) failed to state actual words of abuse and filthy language used. His evidence on that point is vague.

18. In order to prove that Bapusaheb (PW.1) was discharging his duty at the time of incident, it was necessary for the prosecution to produce evidence to show that in the capacity of public servant he was discharging his duty on the spot. In absence of such documentary evidence it is difficult to infer that Bapusaheb (PW.1) was discharging his duty on the spot of incident in the capacity of Public Servant. Moreover, the informant has admitted that he is doing labour work since the year 2000 in the Corporation. As discussed earlier, it is not proved that informant was discharging his duty as public servant.

19. Thus considering the prosecution evidence it is seen that the prosecution has failed to establish that accused, assaulted or used criminal force against Bapusaheb (PW.1) and caused obstruction to him in discharging his public duty, or used criminal force or assaulted him and

accordingly prevented him from discharging his duty. It is not established that accused intentionally insulted and thereby gave provocation to him to break the public peace or committed criminal intimidation by threatening him with intent to cause alarm to him or abused him in filthy language at public place and caused annoyance to him. Therefore, the accused is entitled to be acquitted as prosecution has failed to establish his guilt beyond reasonable doubt. Hence, I answer point No.1 to 4 in the negative and in answer to point No.5 I pass the following order -

ORDER

1. The accused is acquitted of the offences punishable under section 353, 294, 504, 506 of the Indian Penal Code vide Section 235(1) of the Code of Criminal Procedure.
2. His bail bonds stands cancelled, he is set at liberty.
3. The accused shall furnish PR bond of Rs.15,000/- (Rs. Fifteen Thousand only) with one solvent surety of like amount as per section 437-A of the Code of Criminal Procedure.

Date : 25/02/2026.

(Manish D. Charate-Hampe)
Ad-hoc District Judge-1 and
Additional Sessions Judge,
Ahmednagar.

PART 'C'

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES

A. Prosecution :

<u>RANK</u>	<u>NAME</u>	<u>NATURE OF EVIDENCE</u>
PW-1/Exh.13	Bapusaheb Kashinath Phalke,	Informant.
PW-2/Exh.15	Sonu Bapusaheb Phalke,	Son of the informant.
PW-3/Exh.21	Javed Ibrahim Shaikh	Panch witness.
PW.4/Exh.24	Hemant Madhukar Bhangale	Investigating Officer.

B. Defence Witnesses, if any :

<u>RANK</u>	<u>NAME</u>	<u>NATURE OF EVIDENCE</u>
—	--	Nil

C. Court Witnesses, if any :

<u>RANK</u>	<u>NAME</u>	<u>NATURE OF EVIDENCE</u>
—	--	Nil

LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS**A. Prosecution :**

<u>Sr. no.</u>	<u>Exhibit Number</u>	<u>Description</u>
1	Exhibit 14	Report (Complaint).
2.	Exhibit 25	Order of Investigation.
3.	Exhibit 26	Spot panchanama.
4.	Exhibit 27	Portion mark 'A' from statement of Sonu Phalke.
5.	Exhibit 28	Notice issued to Informant.
6.	Exhibit 29	Letter issued to Commissioner
7.	Exhibit 30	Letter issued to Tahasildar.

B. Defence :

<u>Sr. no.</u>	<u>Exhibit Number</u>	<u>Description</u>
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C. Court Exhibits :

<u>Sr. no.</u>	<u>Exhibit Number</u>	<u>Description</u>
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D. Material Objects :

<u>Sr. no.</u>	<u>Material Object Number</u>	<u>Description</u>
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