

MHST060008042022



Presented on : 15.10.2022

Registered on : 15.10.2022

Decided on : 02.04.2026

Duration : 03Y. 05M. 19D

<u>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, DAHIWADI, TAL. MAN, DIST. SATARA</u> (Before : S. S. Gadve)	
R.C.C.No. 60/2022.	Exh.No. 68.
Details of FIR Crime No. : 162/2022, dated 21.06.2022. Police Station : Dahiwadi, Tal. Man, Dist. Satara.	
Informant	State of Maharashtra through Police Station Officer, Police Station, Dahiwadi, Tal. Man, Dist. Satara.
Represented by	Shri. Y. D. Ingawale, learned A.P.P
Accused	1. Nanaso Shrikant Magar Aged -56 years, Occ.: Agriculturist.
	2. Rohit Vijaykumar Magar Aged -25 years, Occ.: Agriculturist.
	3. Rajat Ravindra Magar Aged -31 years, Occ.: Education. All R/at- Malwadi, Tal. Man, Dist. Satara.
Represented by	Advocate Mr. M. M. Patil.

Date of Offence	09.05.2022
Date of FIR	21.06.2022
Date of Charge-sheet	15.10.2022
Date of Framing of charges	18.01.2022 & 02.02.2026
Date of commencement of evidence.	22.02.2022
Date on which judgment is reserved	12.03.2026

Date of the Judgment	02.04.2026
Date of the sentencing order, if nay	-

ACCUSED DETAILS

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial.
A1	Nanaso Shrikant Magar	24.06.2022	24.06.2022	326, 325, 504 and 506 read with section 34 of IPC	Acquitted	N.A.	N.A.
A2	Rohit Vijaykumar Magar						
A3	Rajat Ravindra Magar						

LIST OF PROSECUTION WITNESSES

Rank	Name	Nature of evidence
PW-1	Dinkar Kedari Bagal (Exh. 24)	Panch witness
PW-2	Prakash Raghunath Magar (Exh. 26)	Informant
PW-3	Ajit Hanmant Jadhav (Exh. 31)	Panch witness
PW-4	Rajkumar Hitlar Bhosale (Exh. 33)	Panch witness
PW-5	Sujata Prakash Magar (Exh. 34)	Eye witness
PW-6	Tarubai Raghuath Magar (Exh. 35)	Eye witness
PW-7	Aslam Gulab Mulani (Exh. 36)	Eye witness

PW-8	Prakash Gulab Hange (Exh. 42)	Investigating Officer
PW-9	Ravindra Shivaji Bansode (Exh. 47)	Witness on Certificate u/s 65-B of Indian Evidence Act.
PW-10	Dr. Ujjawala Ashutosh Jadhav(Exh. 50)	Private Doctor
PW-11	Dr. Dilip Janardan Bhojane (Exh. 55)	Medical Officer.

LIST OF DEFENCE WITNESSES

Rank	Name	Nature of evidence
DW-1	Nil	Nil

LIST OF COURT WITNESSES

Rank	Name	Nature of evidence
CW-1	Nil	Nil

LIST OF PROSECUTION EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Exh. 25/PW-1	Spot panchnama.
2	Exh. 27/PW-2	Non-cognizable report.
3	Exh. 28/PW-2	Report.
4	Exh. 29/PW-2	First Information Report.
5	Exh. 32/PW-3/4	Seizure panchnama.
6	Exh. 43 and 44/PW-8	Letters issued by Investigating Officer to the Medical Officer and Head master of Dahiwadi College, Dahiwadi.
7	Exh. 48/PW-9	Certificate under Section 65-B of Indian Evidence Act.

8	Exh. 51/PW-10	CT scan report of informant.
9	Exh. 56/PW-11	Medical certificate of informant.

DOCUMENTS ADMITTED BY DEFENSE

Sr.No.	Exhibit Number	Nature of evidence
1	Nil	Nil

LIST OF DEFENSE EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Exh. 45/PW-8	Assessment extract of spot panchnama.

LIST OF COURT EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Nil	Nil

MATERIAL OBJECTS

Sr.No.	Material Object No.	Description
1	Article- "A and B"	Photographs of spot.
2	MO-1	Iron weighing weight.
3	Article- "C to D"	Photographs regarding recovery panchnama.

∴ J U D G M E N T ∴

(Delivered on 02.04.2026)

Accused No. 1 to 3 are prosecuted for the offence punishable under Section 326, 323, 504 and 506 read with section 34 of the Indian Penal Code, 1860 (hereinafter referred as "IPC" in short).

Prosecution's case in brief :-

02. On 09.05.2022 at about 9:00 a.m., situated at Mouje Malwadi, Tal. Man, Dist. Satara the informant namely Prakash Raghunath Magar was standing in front of his house. That time his cousin i.e., accused No. 1 Nanasaheb came there. At that time, the informant questioned him as to why he had broken the boundary embankment situated in his field known as "Kalwat". Upon being so questioned, accused No. 1 became enraged, abused to the informant in filthy language, and threatened that he would not leave to him alive. Thereafter, accused No. 1 made a phone call and summoned Rohit Vijaykumar Magar, Rajat Ravindra Magar, and Dhiraj Nanasaheb Magar to the spot. After their arrival, all of them, in furtherance of their common intention, abused and intimidated to the informant, and assaulted to the informant by means of kicks and fist blows. During the course of the said assault, Rajat Ravindra Magar picked up an iron weighing weight from a nearby shop and struck to the informant on his forehead, above his right eye, thereby causing injury. On his raising alarm, wife of informant Sujata, came to the spot and intervened, separating the informant from the assailants and pacifying the quarrel. As the informant had sustained a head injury, he proceeded to the Police Station, Dahiwadi to lodge a complaint. Upon reaching there, the police issued a memo directing the informant to seek medical treatment. Accordingly, he went to the Rural Hospital, Dahiwadi, where the Government Medical Officer examined him and administered treatment. However, as his headache persisted, the said Medical Officer advised the informant to undergo a CT scan of the head. Thereupon, he visited the Nidan Sonography and X-ray Clinic at Vaduj, where the doctor informed him that there was a fracture on the right side of the sinus.

After undergoing further medical treatment and upon obtaining the medical certificate, on 21.06.2022, he filed complaint against accused person.

03. On the basis of report, crime vide CR No. 162/2022 came to be registered against the above mentioned persons under section 326, 325, 323, 504 and 506 read with section 34 of the IPC and investigation was handed over to Mr. P. G. Hange ASI, Police Station, Dahiwadi (hereinafter referred as "I.O."). The I.O., visited the spot and prepared spot panchnama in presence of two panch and captured photographs. Thereafter, he seized muddemal i.e. iron weighing weight in presence of two panch and captured photographs, arrested the accused, collected medical certificate of informant and recorded the statements of material witnesses. At the conclusion of investigation, it was transpired that the accused have committed the crime in question. Thus, the accused are charge-sheeted.

04. In the present case, the Investigating Officer, during the course of investigation, has received a communication indicating that Accused Dheeraj Nanaso Magar was present at Dahivadi College, Dahivadi, at the time of the alleged incident. In view thereof, as no cogent and reliable evidence has been collected by the Investigating Officer to establish the presence of the said accused at the scene of offence or his involvement in the crime, he has been released under Section 169 of the Code of Criminal Procedure, 1973.

05. My learned predecessor have framed the charge against accused No. 1 to 3 at Exh. 19 for offence punishable under Section 326, 323, 504 and 506 read with section 34 of the IPC. The accused No. 1 to 3 pleaded not guilty and claimed to be tried. The defence of accused

No. 1 to 3 can be gathered from the cross-examination conducted on their behalf and statement under Section 313 of the Code of Criminal Procedure, 1973 (Exh.59 to 61 respectively) is that they have been falsely implicated in the present case. The accused No. 1 to 3 prayed for benefit of doubt for aforesaid reasons.

06. The prosecution has adduced its evidence. The accused No. 1 to 3 have not adduced any oral evidence. I have heard the arguments of learned A.P.P. and the learned defense counsel. I have carefully gone through the record. Considering the charge and arguments, the following points are formulated for determination with my findings noted opposite them for the reasons to follow :-

SR.NO.	POINTS	FINDINGS
1.	Whether the prosecution proves that on 09.05.2022 at about 09.00 a.m. at Malavadi the accused No. 1 to 3 in furtherance of their common intention voluntarily caused grievous hurt to the informant – Prakash Raghunath Magar by means of an iron weight which if used as a weapon of offence are likely to cause death and thereby accused have committed an offence punishable under section 326 read with section 34 of the IPC ?	... No.
2.	Whether the prosecution proves that on above date, time and place the accused No. 1 to 3 in furtherance of their common intention voluntarily caused hurt to the informant and	... No.

	thereby committed offence u/s 323 read with section 34 of IPC ?	
3.	Whether the prosecution proves that on above date, time and place the accused No. 1 to 3 intentionally abused to the informant and thereby gave provocation to him in order to breach of peace and thereby committed offence u/s 504 read with section 34 of IPC ?	... No.
4.	Does the prosecution prove that on above date, time and place the the accused No. 1 to 3 in furtherance of their common intention criminally intimidated to the informant and given threat to him and thereby committed offence under Section 506 read with 34 of IPC ?	... No.
5.	What order ? As per final order.	

:- REASONS :-

AS TO POINTS NO. 1 TO 4 :-

07. The aforesaid points are interconnected and depend on same discussion coupled with appreciation of evidence. Thus, I discussed all points together.

08. It is the case of the prosecution that the accused No. 1 to 3 in furtherance with their common intention voluntarily caused grievous hurt to the informant – Prakash Raghunath Magar by means of an iron weight. They also assaulted, abused and threatened him.

09. The learned APP argued that all prosecution witnesses have supported the prosecution case. There is only minor contradictions in

the evidence of prosecution witnesses. These minor contradictions are not fatal to the prosecution case. There is medical evidence on record. The prosecution has relied on following judgments :-

1. Motiram Padu Joshi and others vs. State of Maharashtra, AIR 2018 SC 3245.
2. Deepak Pralhad Shejwal vs. State of Maharashtra, decided on 24 February 2015 (Bombay High Court).
3. Kamala Kanta Das and another vs. State of Orissa and another, decided on 24 July 2017 (Orissa High Court).
4. Wasudeo Chhotelal @ Ramchandra vs. State of Maharashtra, decided on 28 January 2010 (Bombay High Court).
5. Ali Ahmad and others vs. State of Uttar Pradesh, 1995 Cri. LJ 3747.

10. On the other hand, the learned advocate for accused submitted that there is material contradictions in the evidence of prosecution witnesses. The eye witnesses are interested witnesses. The recovery panchnama has not been proved. The medical evidence is suspicious. He has placed his reliance upon the following judgments:-

1. Palaniswamy and others vs. State, decided on 26 February 1992 (Madras High Court).
2. Manu vs. State, (2017) 2 AICLR 173.
3. State of Maharashtra vs. Sankosh, (2017) 3 AIR Bom R (Cri) 591.

4. P. Senthil vs. State by Inspector of Police, (2018) 2 MLJ (Cri) 582 (Madras High Court).

5. Bablu Hiranman Landge Vs. Devidas Ramchandra Gade, (2019) 1 AIR Bom R (Cri) 603 (Bombay High Court).

11. In order to establish the guilt of the accused persons, the prosecution has examined as many as eleven (11) witnesses out of which Ajit Jadhav (PW 3) who is recovery panch has not supported the prosecution case.

12. It is pertinent to note that learned advocate for accused put his emphasis on the fact that there is delay in lodging First Information Report. At the outset, the delay in lodging First Information Report assumes great significance. The alleged incident took place on 09.05.2022, whereas First Information Report came to be registered on 21.06.2022 i.e., after a delay of more than one month. The informant Prakash (PW 2) in his examination-in-chief at Exh. 26 deposed that initially only a non-cognizable report was lodged, wherein there was no allegation of assault by iron weighing weight. He further explained that he told about the weapon to police at the time of lodging non-cognizable report. By perusal of non-cognizable report at Exh. 27 it appears that there is only assault by kicks and blows mentioned in non-cognizable report. It is settled principle of law that unexplained delay in lodging First Information Report creates doubts and affords scope for embellishment. The judgments relied upon by the accused i.e., **Bablu Landge Vs. Devidas Gade** (mentioned Supra), emphasis that delay coupled with material improvements weakens the prosecution's case.

13. The prosecution has attempted to justify the delay on the ground that informant came to know about the fracture after CT scan i.e., after 20.06.2022. However, even accepting the said explanation, the fact remains that specific role of use of iron weighing weight was introduced for the first time after considerable delay, which amounts to material improvements and affects the prosecution's story.

14. Further, a very important circumstance is that on 14.06.2022, prior to registration of First Information Report, the Investigating Officer issued a letter to the Medical Officer seeking opinion regarding use of iron weighing weight. In cross-examination, the Investigating Officer (PW 8) admitted that he has sent letter (at Exh. 43) to Medical Officer on 14.06.2022 for seeking opinion. This circumstance is highly unnatural and creates doubt about the investigation. It gives rise to a reasonable inference that the story regarding use of iron weighing weight was developed subsequently, which adversely affects the prosecution's case.

15. The evidence regarding weapon is not consistent. The informant Prakash (PW 2) deposed that accused No. 3 assaulted him with an iron weighing weight. However, the Medical Officer Dr. Bhojane (PW 11) (at Exh. 55) in his cross-examination, admitted that the medical certificate at Exh. 56 mentions the weapon as wooden stick. This is material contradiction between oral and medical evidence. Further, the informant Prakash (PW 2)(Exh. 26) in his cross-examination, admitted that the police brought the iron weighing weight at the time of spot panchnama. This admission is fatal to the prosecution case and clearly suggest that alleged weapon was not recovered from the spot or at the instance of the accused, but was subsequently introduced.

16. The recovery of weapon is also not properly proved by the prosecution. First recovery panch Ajit (PW 3) has not supported to the prosecution. The second recovery panch Rajkumar (PW 4) in his examination-in-chief at Exh. 33 deposed that the accused Rajat has brought the said weapon in police station and the Investigating Officer in presence of him seized the said weapon and prepared recovery panchnama. But in cross-examination, he admitted that he is regular panch witness, does not know the accused Rajat, and he is not aware about other persons present at the time of seizure. The Investigating Officer in his cross-examination at Exh. 42 has admitted that seizure panchnama at Exh. 32 does not mention the time. This is a serious procedural lapse.

17. The spot panch Bagal (PW 1) in his cross-examination at Exh. 24 admitted that he is a relative of the informant. He has signed on already written paper at the instance of police and informant. He is not aware about the contents. Thus, the spot panchnama loses its evidentiary value.

18. The informant Prakash (PW 2) has supported to the prosecution. But in cross-examination, he admitted that he has sustained only one injury and he was not bleeding. He also admitted that there is boundary dispute between him and accused. In examination-in-chief he deposed that only his wife came for rescue. However, his wife Sujata (PW 5) and his mother Tarubai (PW 6) deposed in their evidence that incident took place in their presence. In cross-examination, they admitted that at the time of incident they were inside the house. Aslam (PW 7) in his examination-in-chief deposed that after assault informant fell down and thereafter, his wife and mother came for rescue. These contradictions goes to the root of the matter and

creates doubt about their presence at the spot. Further Sujata (PW 5) in her cross-examination, admitted that she can not read or write and unaware about her police statement, thereby, affecting her creditability.

19. The evidence regarding injuries is also inconsistent. The informant Prakash (PW 2) admitted that he was not bleeding, whereas his mother Tarubai (PW 6) stated that there was blood on cloths of informant and ground. Such inconsistency indicate exaggeration and reduce reliability of prosecution's witnesses.

20. The prosecution has not examined any independent witness, though it has come on record that about 20-25 persons had gathered at the spot of incident, which is a crowded place. Non-examination of independent witnesses, without satisfactory explanation, gives rise to adverse inference.

21. The false implication of accused Dheeraj is another important circumstance. Initially First Information Report was lodged against four accused. Subsequently, it was revealed that accused No. 4 was present at college and not at the spot and he came to be released under Section 169 of the Cr.P.C. The informant also gave supplementary statement to that effect. This clearly shows that the informant had initially implicated a person who was not present, thereby affecting his credibility. The learned APP submitted that the principle of "falsus in uno, falsus in omnibus" is not applicable in India. It is true that the said principle is not applicable but such false implication create doubt about the prosecution's case.

22. It is also admitted that there exists dispute between accused and informant regarding agricultural boundaries. This provides

motive for false implication. The judgments cited by accused including **Manu vs. State** (mentioned Supra) emphasis that where there is previous enmity, evidence must be scrutinized with greater caution.

23. By considering all evidence on record, it appears that there is unexplained delay in lodging First Information Report. There are material contradictions in the evidence of prosecution witnesses. The medical evidence is inconsistent with evidence of oral evidence. There is existence of prior enmity.

24. The prosecution has relied upon various judgments. However, the principle laid down therein are not helpful in the present facts, as the evidence on records suffers from serious infirmities. On the contrary, the judgments relied upon by the accused are applicable to the present case, wherein it is consistently held that when evidence is doubtful and suffers from material contradictions, the accused is entitled to benefit of doubt.

25. It is settled principle of law that the prosecution must prove its case beyond reasonable doubt. In the present case, the evidence adduced by the prosecution is not free from doubt and does not inspire confidence. The inconsistencies and infirmities discussed above create reasonable doubt. It means that the prosecution has miserably failed to prove main ingredients of the offence punishable under section 326, 323, 504 and 506 read with 34 of the I.P.C., by sufficient and cogent evidence. In the result, accused No. 1 to 3 are entitled to be acquitted. Accordingly, Points No.1 to 4 are answered in the negative.

AS TO POINT NO. 4.

26. Considering the above discussion in answer to point No. 4, I proceed to pass order as under :-

-: O R D E R :-

- 1) Accused No. 1 **Nanaso Shrikant Magar**, accused No. 2 **Rohit Vijaykumar Magar** and accused No. 3 **Rajat Ravindra Magar** are hereby acquitted of the offence punishable under section 326, 323, 504 and 506 read with 34 of of the Indian Penal Code, 1860 vide Section 248(1) of the Code of Criminal Procedure, 1973.
- 2) Their bail bonds stand cancelled.
- 3) The muddemal property i.e. Iron weighing weight be disposed as per law after the lapse of appeal period.
- 4) The accused persons shall furnish fresh P.B and S.B of Rs. 15,000/- each to appear before the Appellate Court as and when such Court issue notice in respect of any appeal or revision file against the present judgment and such bail bond shall be in force for six months vide, section 437-A of the Code of Criminal Procedure, 1973.

Date :- 02.04.2026
Place:-Dahiwadi.

(**S. S. Gadve**)
Judicial Magistrate First Class,
Dahiwadi.

:- Affirmation certificate :-

I affirm that the contents of this P.D.F file order are same, word to word as per original order.

Name of the Stenographer	:- A. N. Ombase, Steno Grade-3,
Name of the Court	:- Civil Judge (J.D.) & J.M.F.C., Dahiwadi, Tal. Man, Dist. Satara.
Date of judgment/order	:- 02.04.2026
Judgment/order signed by the Presiding Officer on	:- 04.04.2026
Date of judgment/order uploaded on	:- 04.04.2026