

MHPA010027772022



Presented on : 12-10-2022

Registered on : 12-10-2022

Decided on : 26-10-2023

Duration : 1 years, 0 months, 14 days

Form No. XXXII

Part 'A'

(Title Page of Judgment)

(Para 44 (I) of Chapter VI of Criminal Manual)

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-2, PARBHANI DISTRICT PARBHANI Present : Abdussalam A.A. Shaikh, Additional Sessions Judge, Parbhani (Date : 26.10.2023) (Sessions Case No. 226/2022) Exh. No.(33)		
	(FIR No. 86/2016 under Section 354(A), 294, 336, 323 read with Section 34 of the Indian Penal Code, 1860 Police Station, Kotwali, Parbhani Taluka & District Parbhani)	
Complainant	:-	The State of Maharashtra through Police Station, Kotwali, Parbhani, Taluka and District Parbhani (at the instance of informant Priya w/o Rahul Hatagale, Age 21 years, Occu. Household R/o Tathagat Nagar, Parbhani District Parbhani).
REPRESENTED BY	:-	Mr. N.S. Khalikar Learned A.P.P. for the State.
ACCUSED	:-	01. Rajkumar Ramrao Jondhale, Age 44 years, Occu. Advocate, 02. Suvarna @ Shobha w/o Rajkumar Jondhale, Age 35 years, Occu. Household Both R/o Tathagat Nagar, Parbhani Taluka and District Parbhani.
REPRESENTED BY	:-	Mr. P.K. Bharade, Learned Advocate for accused.

Part 'B'

(Para 44 (ii) of Chapter VI of Criminal Manual)

Date of offence	:-	08.03.2016
Date of FIR.	:-	08.03.2016
Date of Charge-sheet.	:-	21.09.2016
Date of Framing of Charges.	:-	14.12.2022
Date of commencement of Evidence	:-	17.01.2023
Date on which judgment is reserved.	:-	26.10.2023
Date of Judgment.	:-	26.10.2023
Date of the Sentencing Order, if any.	:-	---

Accused Details.

Rank of the accused	Name of accused	Date of Arrest	Date of Release on bail	Offences charges with	Whether acquitted or convicted	Sentence imposed	Period of detention Undergone during Trial for purpose of Section 428 Cr.PC.
(1)	Rajkumar Ramrao Jondhale	12.12.2016	12.12.2016	U/s. 354(A), 294, 336, 323 r/w 34 of the Indian Penal Code, 1860	Acquitted	—	—
(2)	Suwarna @ Shobha w/o Rajkumar Jondhale	12.12.2016	12.12.2016	-do-	Acquitted	—	—

Part 'C'

(Para 44 (ii) of Chapter VI of Criminal Manual)

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**A. Prosecution :-**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Priya w/o Rahul Hatagale	Informant.
PW-2	Rahul Sahebrao Hatagale	Witness.

B. Defence Witnesses, if any:-

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
–	– Nil -	– Nil -

C. Court Witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
--	– Nil –	– Nil --

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

Sr.No.	Exhibit Number	Description
–	- Nil -	- Nil -

B. Defence :-

Sr.No.	Exhibit Number	Description
–	Nil	Nil

C. Court Exhibits :-

Sr.No.	Exhibit Number	Description
–	Nil	Nil

D. Material Objects :-

Sr.No.	Exhibit Number	Description
–	Nil	Nil

JUDGMENT

(Delivered on 26th day of October, 2023)

1. Accused named-above are prosecuted for the offences punishable under Section 294, 324, 504 read with 34 read with Section of the Indian Penal Code, 1860.

2. All the offences in this case are triable by the learned Magistrate, but since the counter case bearing Sessions Case No. 91/2017 (The State Vs. Sahebrao Hatagale & Ors) is punishable for the offences punishable under Section 307 read with 149, 143, 147, 148, 452 read with 149 and 504 read with 34 of the Indian Penal Code, 1860 pending in this Court, this case is also committed by the learned Magistrate to this Court for trial with the counter case.

3. **Prosecution case in brief is as under:-**

(i) Informant namely Priya w/o Rahul Hatagale lodged her report to police that she resides at Tathagat Nagar, Parbhani along with her husband Rahul and her mother-in-law Shobha and her father-in-law Sahebrao Hatagale and her brother-in-law Amol. The construction of their house is going on. On 08.03.2016 at about 06.00 p.m. she along with her husband Rahul, her mother-in-law Shobhabai, Mason Kishor Tongraj and Bhimrao Tongraj were present in the house. At that time, Rajkumar Ramrao Jondhale who is residing in the same lane along with his wife Shobha came in front of their house started abusing them. They had also quarreled with her on the last Tuesday dispute by saying that the water of the public gutter came in front of their house because of the family of the informant. Because of that reason on 08.03.2016 at about 06.00 p.m. both Rajkumar Jondhale and Shobha Jondhale started abusing them. At that time, informant and her family members came out of the house on the road. At that time, Rajkumar abused informant by saying her "छिनाल रांड, गांडमनीचे, तुमच्या गांडीतले खडे काढतो, मी वकील आहे. तुम्हाला दोर्घींना रोडवर झोपवतो" [Chhinal Raand, Gandmaniche (abusive word), I take out stones from your anus; I am Vakil (Advocate), I cause you to sleep with me on the road]. At that time informant's husband Rahul stated to Rajkumar Jondhale as to why he was abusing them. At that time, Rajkumar lifted brick from the road and pelted that brick and thereby hit that brick on the left side head near the left eyebrow of informant's husband. At that time, Rajkumar also assaulted informant's husband by fist and kick blows. They were trying to intervene and at that time, Rajkumar's wife Shobha Jondhale abused them by saying "तुम्ही आमचे घरात माझे नव-यासोबत एक रात्र झोप, आमची पंचवीस करोडाची मालमत्ता

तुमच्या नावाने करतोत" (you sleep with my husband for one night, I will transfer our property worth of twenty five crore in your name). She also assaulted informant and her husband by giving slap and fist blows. At that time, Bhimrao Gyanoji Tongraj and Kishor Kashinath Tongraj intervened and removed them. So, on the report of the informant crime for the offences punishable under Section 294, 354-A, 337, 323, 504 read with 34 of the Indian Penal Code, 1860 vide Crime No. 86/2016 was registered with Kotwali police station, Parbhani.

4. Statement of witnesses were recorded. Injury certificate of the informant's husband Rajul Sahebrao Hatagale was obtained from the hospital. Panchanama of the place of incident was drawn and from the spot of incident one brick was also seized in the presence of panchas. After completion of investigation, charge-sheet was filed.

5. During the pendency of this case, accused persons have been already discharged of the offence punishable under Section 354-A of the Indian Penal Code, 1860 by the learned Magistrate by passing order dated 01.09.2021 below Exh.16. Accused persons are also discharged of the offence punishable under Section 337 of the Indian Penal Code, 1860 and therefore, charge was framed against accused persons for the offences punishable under Section 294, 324, 323, 504 read with 34 of the Indian Penal Code, 1860.

6. Charge at Exh.No.05 for the offences punishable under Section 294, 294 read with 34, 324, 324 read with 34, 294, 294 read with 34, 323, 323 read with 34 and 504 read with 34 of the Indian Penal Code, 1860 was framed against accused persons. Particulars of the offences were read over and explained to them in Marathi and they

were asked as to whether they pleaded guilty to the same. Accused pleaded not guilty and claimed to be tried.

7. During the pendency of this case and after examination-in-chief of the informant was recorded, the matter was compromised between both the parties and in that respect they have filed pursis at Exh.23 for the offences punishable under Section 323 and 324 and 504 read with 34 of the Indian Penal Code, 1860 and accordingly, accused are acquitted of the offences punishable under Section 324, 323, 504 read with 34 of the Indian Penal Code, 1860 and trial proceed further for the offence punishable under Section 294 of the Indian Penal Code, 1860.

8. After recording evidence and hearing both the sides following points arise for my determination and I have noted my findings against each of them for the reasons to follow:-

<u>Sr.No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
01.	Whether it is proved by prosecution that accused No.1 to the annoyance of others did an obscene act in public place by uttering the word obscene word to the informant and her mother-in-law "छिनाल रांड, गांडमनीचे, तुमच्या गांडीतले खडे काढतो, मी वकील आहे. तुम्हाला दोर्घीना रोडवर झोपवतो [Chhinal Raand, Gandmaniche (abusive word), I take out stones from your anus; I am Vakil (Advocate), I cause you to sleep with me on the road]”?	No.

02. Whether it is proved by prosecution that > **No.**
accused No.2 to the annoyance of others
did an obscene act in public place by
uttering the words to the informant and
her mother-in-law "तुम्ही आमचे घरात माझे नव-
यासोबत एक रात्र झोप, आमची पंचवीस करोडाची
मालमत्ता तुमच्या नावाने करतोत" (you sleep with
my husband for one night, I will transfer
our property worth of twenty five crore in
your name)”?
03. Whether it is proved by prosecution that > **No.**
accused No.1 in furtherance of common
intention of accused No.2 voluntarily
caused hurt to informant's husband by
means of brick which when used as a
weapon of assault is likely to cause death?
04. Whether it is proved by prosecution that > **No.**
accused No.1 in furtherance of common
intention of accused No.2 voluntarily
caused hurt to informant's husband?
05. Whether it is proved by prosecution that > **No.**
accused No.2 in furtherance of common
intention of accused No.1 voluntarily
caused hurt to informant's husband ?

06. Whether it is proved by prosecution that accused in furtherance of their common intention intentionally insulted informant's mother-in-law and thereby gave provocation to her intending or knowing it to be likely that such provocation would cause her to break public peace or to commit any other offence? > **No.**
07. What offences, if any are proved against accused ? > **No offence is proved against accused.**
- 08 What order ? > **As per final order.**

REASONS:

AS TO POINT NOS. 1 TO 7:-

9. In support of its case prosecution has examined following witnesses:-

(i) Sau. Priya Rahul Hatagale (PW-1) at Exh.13 who is the informant;

(ii) Rahul Sahebrao Hatagale (PW-2) at Exh.25 who is the injured.

10. Evidence of informant shows that the incident took place on 08.03.2016 at about 06.00 p.m. at Tathagat Nagar in front of her house. At that time she, her husband Rahul, her mother-in-law Shobha and her

father-in-law Sahebrao were present there. At that place their mason Kishor Tongraj, her husband's maternal uncle Bhimrao Gyanoji Tongraj were also present there and that at that time the construction of their house was going on. At that time, Rajkumar Jondhale, the accused came there and he told her and her mother-in-law and her family members "सार्वजनिक नालीचे पाणी तुमच्यामुळे आमच्या घरासमोर येत आहे" (water of the public gutter come in front of our house because of you). By saying so he started abusing them. After hearing this, she came out of their house. At that time, her mother-in-law, her father-in-law and her husband also came out of the house. After they all came out of the house, Rajkumar Jondhale abused them by saying "छीनाल रांड, गांडमनीचे, तुमच्या गांडीतील खडे काढतो, मी वकील आहे" [Chinnal, Raand, Gandmaniche, (abusive words), I take out stones from your anus; I am Vakil (advocate)]. In the same way, he abused her and her mother-in-law by saying "मी तुम्हाला रोडवर झोपवतो". [I cause you to sleep with me on the road]. At that time, her husband asked Rajkumar Jondhale as to why he abuses. At that time, Rajkumar Jondhale picked up the brick which was lying on the road and assaulted her husband by pelting the brick. That brick hit on the left side head of her husband (i.e. above the left eyebrow of her husband). Rajkumar Jondhale assaulted her husband by fist and kick blows. While she and her mother-in-law were intervening the quarrel at that time, Rajkumar Jondhale's wife namely Shobha Jondhale came out and she started abusing her and her mother-in-law by saying "तुम्ही माझ्या नव-यासोबत एक रात्र झोपा, आमची पंचेवीस करोडची प्रॉपर्टी तुमच्या नावावर करते" (you sleep with my husband for one night; I will transfer our property worth of twenty five crore in your name). By saying so, Shobha Jondhale started assaulting her and her mother-in-law by fist and kick blows. While that quarrel was going on her husband's maternal uncle Bhimrao

Gyanoji Tongraj and mason Kishor Tongraj intervened the quarrel. Thereafter, they went to Kotwali police station and she lodged complaint to police. She has identified her signature on the complaint (Exh.14) which was shown to her during her evidence and admitted its contents to be correct. She has also identified accused Rajkumar Jondhale. She stated during her evidence that she can identify accused No.2 Shobha Jondhale but she was not present in the Court on that day and her exemption application filed by her advocate was granted by the Court.

11. In her cross-examination she has deposed that her education qualification is upto S.S.C. She has admitted that when she lodged complaint to police at that time construction of their house was going on. She has admitted that at that time, their building materials i.e. stones, bricks and other items were lying on the road. She has admitted that the road in front of their house is having width of 10 to 12 feet and it proceeds in the direction of East and West. To the East side adjacent to their house there is house of Ravi Shinde. She has admitted that in the house of Ravi Shinde round about 7 to 8 male and female persons reside and that to the west side adjacent to their house there is house of Dnyanoba Shinde and in that house Dnyanoba Shinde's son Sunil reside and to both the side of their house there are so many houses. She has admitted that the road in front of their house goes to Bhim Nagar, Aziziya Nagar, Zumzum Colony and the road in front of their house is for the public to come and go and for the vehicles to pass on it.

12. In her cross-examination she has further deposed that she does not know that the beat Jamadar of their area at that time was Dhabadge and that he is her distant relative. She has admitted that

Kotwali police station is at the distance of 15 to 20 minutes if they go by walk from her house. She gave her written complaint in Kotwali police station. She did not lodge complaint to police in respect of the quarrel which took place between accused and them prior to the incident. She has admitted that when she lodged her written complaint to police at that time, her husband, her father-in-law, her mother-in-law and her brother-in-law were present with her. She does not know that when she gave written complaint to police at that time the beat Jamadar of their area namely Dhabadge was also present with them in the police station. She has admitted that police prepared her complaint and she put her signature on it as complainant.

13. In her cross-examination one question was asked to her that in her complaint the reference of the abuses attributed to the both the accused is written by the police on their own and those abuses were not stated by her to the police? To this question she has answered that she does not remember. Police might have written it. She has admitted that after lodging complaint to the police she did not read the contents of the complaint. She has admitted that against them Rajkumar lodged complaint in Kotwali police station and that crime is registered under Section 307, 143, 147, 452, 504, 149, 149, 323 of the Indian Penal Code, 1860 and in that case police filed charge sheet against them and that case is pending in this Court.

14. She has admitted in her cross-examination that they have done compromise with accused Rajkumar and his wife and that now she has no complaint against Rajkumar and his wife and she does not want to proceed with this case.

15. Considering the aforesaid admission given by the informant in her cross-examination that compromise has taken place between her and both the accused and that now she does not want to proceed with this case and the fact that evidence of her husband Rahul Sahebrao Hatagale (PW-2) shows that their quarrel with accused No.1 & 2 took place and when the group of persons gathered there and thereafter, their quarrel was settled and that he has deposed that it has not happened that on 08.03.2016 at 06.00 p.m. accused Rajkumar abused his wife and hit him by pelting brick and then accused No.2 abused his wife and his mother and assaulted them and that no independent witness or other eye witness is examined to support the evidence of informant, I am of the view that evidence of informant becomes weak and cannot be relied upon.

16. Under the circumstances, it can be said that prosecution has failed to prove its case beyond reasonable doubts. Therefore, accused are entitled for acquittal. My answer to point No.1 to 6 is “No”. My answer to point No.7 is that “no offence is proved against accused”. My answer to point No.8 is as per final order. Hence, I pass the following order:-

ORDER

1. Accused No.1 & 2 namely Rajkumar Ramrao Jondhale and Suvarna @ Shobha w/o Rajkumar Jondhale are acquitted of the offences punishable under Section 294, 323, 324, 504 read with 34 of the Indian Penal Code, 1860.
2. Their bail bonds shall stand cancelled and their

respective surety is discharged.

3. Muddemal property i.e. one brick seized in this case being worthless be destroyed after appeal period is over, if any notice of appeal is not received during such period.
4. Accused are required to execute P.B. & S.B. of Rs. 25,000/- (Rupees Twenty Five Thousand) each to appear before Hon'ble Appellate Court or Higher Court, if any appeal or petition is filed against this Judgment and this bond shall remain in force for the period of six months.

(Abdussalam A.A. Shaikh)
Additional Sessions Judge-2
Parbhani.

Date : 26.10.2023