


MHAH010077212024 	Presented on	:	16.12.2024
	Registered on	:	16.12.2024
	Decided on	:	03.06.2026
	Duration	:	<u>Y.</u> <u>M.</u> <u>D.</u> 01 05 17

Form No.XXXII

Part "A"

[Para 44(i) of Chapter VI of Criminal Manual]

<u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE,</u> <u>AHMEDNAGAR, AT : AHMEDNAGAR.</u>	
Present : Shri. Rajesh M. Tayade , Additional Sessions Judge Date of the Judgment :- 03/06/2026 <u>SESSIONS CASE No. 346/2024</u>	
Exh.34	
F.I.R./Crime No.	: I 591/2023
Police Station	: Camp Police Station, Dist. Ahmednagar.
Complainant	:: State of Maharashtra
Represented By	: Ld. APP : Shri. A. B. Chaudhari
Accused	1. Mujib @ Bhurya Ajj Khan Age - 33 years, Occ. - Private job. R/o. Near Inam Masjid, House no.4, Mulla Colony, Mukundnagar, Dist.Ahmednagar.
	2. Arif Jabir Khan Age - 28 years, Occ. - Private job. R/o. Rajkot Chal, in front of Garib Nawaj Masjid, Mukundnagar, Dist.Ahmednagar.
Represented By	: Ld. Advocate Shri. A. A. Sayyad

Part “B”

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

Date of Offence	:	11.09.2023
Date of FIR	:	11.09.2023
Date of Charge-sheet	:	18.01.2024
Date of Framing of Charges	:	20.09.2025
Date of commencement of evidence	:	25.11.2025
Date on which judgment is reserved	:	22.05.2026
Date of the Judgment	:	03.06.2026
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 charged with	Whether acquitted or convicted	Sentence Imposed	Period of detention undergone during trial for purpose of Sec.428, Cr.P.C.
1.	Mujib @ Bhurya Ajj Khan	12.09.2023	12.09.2023	Under section 353, 332, 341, 323 504, 506 r/w. 34 of IPC	Acquitted	--	--
2.	Arif Jabir Khan	12.09.2023	12.09.2023	”-	”-	--	--

Part 'C'
[Appended to the Judgment]

.....
CHARGE : Under section 353, 332, 341, 323, 504, 506
r/w. 34 of the Indian Penal Code.
.....

: J U D G M E N T :
(Delivered on 3rd June, 2026)

The accused are charged and prosecuted for the offences punishable under section 353, 332, 341, 323, 504, 506 r/w. 34 of the Indian Penal Code.

F.I.R., INVESTIGATION & PROSECUTION CASE :

2. **The facts of the prosecution case are as under :**

The informant Sopan Vitthal driver is the S.T. driver attached to S.T. Depot, Shrirampur, Dist. Ahmednagar. On 11.09.2023 he was on his duty in Bus No.MH 14 BT 4169 from Shrirampur to Pune. Santosh Dhiwar was the conductor of said S.T. bus. He reached at Tarakpur bus stand and going to Pune via DSP Chawk and Maliwada bus stand. At that time, two persons were going slowly on motorcycle bearing No. MH 16 DB 3131 talking with each other in front of his bus. Therefore he blow horn towards them. Those persons abused him in filthy language, restrained the bus by taking their motorcycle in front of the bus. They entered in the bus through the passenger's door and beat the informant by kicks and fists blows. One person caught hold of the

collar of shirt of driver due to which the buttons were broken. On inquiry he came to know names of those persons as Mujib Ajij Khan and Arif Javed Khan. He transferred the passengers travelling in his bus in another bus and lodged complaint against the accused. Accordingly Crime No.591/2023 came to be registered at Bhingar Camp Police Station, Ahmednagar.

3. After registration of crime, the investigation was handed over to the Investigating Officer Kiran Subhash Salunke. He received the complaint and F.I.R. He prepared spot panchanama Exh.20, seizure panchnama of shirt of the informant Exh.21. He recorded the statements of witnesses and obtained medical certificate of the injured. After completion of investigation, as there was sufficient evidence against the accused persons, he filed charge-sheet before Addl. Chief Judicial Magistrate, Court No.3, Ahmednagar against them. It was registered as R.C.C. No. 138/2024.

COGNIZANCE & COMMITTED :

4. After filing of charge-sheet the Addl. Chief Judicial Magistrate, Court No.3, Ahmednagar took cognizance of the case and after due compliance with section 207 of Cr.P.C. found that one of the section 353 of the Indian Penal Code is triable by Court of Sessions. Therefore, the case came to be committed under Section 209 of CrPC to the Court of Sessions, Ahmednagar for trial according to law.

CHARGE & DEFENCE :

5. This Court framed the charge against the accused below Exh.7 on 20.09.2025 for the offences punishable under section 353, 332, 341, 323, 504, 506 r/w. 34 of the Indian Penal Code. Contents of charge were read over and explained to the accused persons in vernacular. After having understood the contents of charge, accused pleaded not guilty and claimed to be tried. The defence of the accused is of total denial.

6. To prove the guilt of the accused persons, the prosecution has examined in all five witnesses. After examination of witnesses, the prosecution closed its evidence by filing pursis at Exh.30.

NOTE :

Oral as well as documentary evidence produced by the prosecution is shown in Part-C appended to the Judgment, as directed in a para-44(iii) of the Criminal Manual.

STATEMENT OF THE ACCUSED :

7. Statement of accused under Section 313 (1) (b) of Code of the Criminal Procedure, came to be recorded at the conclusion of trial. The accused neither stepped into the witness box, examined any witness on their behalf nor filed any documentary evidence in their defence.

8. Heard learned APP Shri. A. B. Chaudhari for the State and learned advocate Shri. A. A. Sayyad for accused at considerable length.

ARGUMENT BY THE LD. APP FOR THE STATE :

9. Ld. APP Shri. A. B. Chaudhari for State submitted that by examining in all five witnesses, the prosecution has established its case under section 353, 332, 341, 323, 504, 506 r/w. 34 of the Indian Penal Code. The informant has supported the prosecution case and the other witnesses corroborated to the complaint and also corroborated to each other. Ld. APP submitted that the accused committed the offence at public place and their such conduct shows that they have no any fear of law and order. All the witnesses have deposed about the criminal acts of the accused persons. There is nothing in their cross-examination to create doubt about the veracity of their evidence. Ld. APP submitted that the ingredients of offences are duly proved. The F.I.R., spot and seizure panchanama are duly corroborated by substantial evidence. The informant is a public servant and while discharging his duty, the accused used criminal force with intend to prevent him from discharging his official duty. The prosecution proved the charge levelled against the accused persons. Hence, he prayed to convict the accused persons according to law.

ARGUMENT BY DEFENCE :

10. Per contra, Ld. Advocate Shri. A. A. Sayyad for the accused submitted that there is an ambiguity in the evidence of prosecution witnesses. In this case, the statements of informant i.e. driver and eye-witness conductor are contradictory. Therefore, the prosecution failed to prove the complaint against the accused. The accused have not committed any offence. No any independent witness is examined by the prosecution. There is no credible material on record to prove the guilt of the accused beyond reasonable doubt. Therefore, the accused are falsely implicated in the crime. Hence, he prayed to acquit the accused in this case.

11. Considering the rival submissions in view of the charge framed against the accused and the evidence on record, following points arise for my determination, I have answered my findings thereon along with reasons as under :

<u>S.No.</u>	<u>Points</u>	<u>Findings</u>
1.	Does the prosecution prove that the accused restrained or deterred the informant from discharging his official duty as such public servants ?	..In the negative.
2.	Does the prosecution prove that the accused voluntarily caused hurt to the informant by assaulting him ?	..In the negative.
3.	Does the prosecution prove that the accused wrongfully restrained the S.T. bus ?	..In the negative.

4.	Does the prosecution prove that the accused voluntarily caused hurt to the informant by assaulting him with blows of kicks and fists ?	..In the negative.
5.	Does the prosecution prove that the accused intentionally insulted to the informant by abusing and gave provocation to him, knowing it to be likely that such provocation will cause him to break public peace ?	..In the negative.
6.	Does the prosecution prove that the accused committed criminal intimidation by threatening to the informant with intend to cause alarm to him ?	..In the negative.
7.	What order ?	..As per final order

: REASONS :

LEGAL ISSUE INVOLVED :

The accused is charged and prosecuted for the offences punishable under section 353, 332, 341, 323, 504, 506 r/w.34 of the Indian Penal Code.

12. In order to prove the offence punishable under section 353, 332, 323 and 341 of the Indian Penal Code, the prosecution need to prove :

(1)	The persons assaulted were public servants,
(2)	When so assaulted, they were acting in execution of their duty as such public servants;
(3)	The assault or criminal force was used with intend to prevent or deter the persons from discharging their duty as such public servants.

(4)	The accused voluntarily caused hurt to the public servants by assaulting with fists and kicks blows to prevent him from discharging his duty.
(5)	The accused intentionally entered in the bus through the door of passengers and beat the informant by fists and kicks blows and voluntarily caused hurt.

13. In order to prove the offences punishable under section 504 and 506 of the Indian Penal Code, the prosecution need to prove :

(1)	The accused intentionally insulted to the informant and prosecution witness by abusing and gave provocation to them.
(2)	The accused knowing it to be likely that such provocation will cause the informant and prosecution witness to break public peace.
(3)	The accused committed criminal intimidation by threatening to the informant, with intend to cause alarm.

ON APPRECIATION OF ORAL EVIDENCE :

14. In the matter of *Laloo Manji Vs. State of Zarkhand, AIR 2003 SC 854* the Hon'ble Supreme Court has classified the kinds of witnesses based upon credibility of witnesses in three categories; (i) Wholly reliable, (ii) Partly reliable and partly unreliable; (iii) Wholly unreliable.

So far as the classification of (i) & (iii) are concern, from the testimony of the witnesses, they can be categorized

accordingly. But if, from the tenor of the evidence of witnesses if there are found some embroidery, suppression/twisting of the facts, material inconsistencies/variance with the established facts on record, then the witness can be categorized in category (no.ii) i.e. partly reliable and partly unreliable, which required in a depth scrutiny and corroboration on material aspects to believe their versions.

With above preposition of law, let us now deal with the evidence on record.

CONSIDERATION :

AS TO POINTS NO. 1 TO 6 :

15. The above points are interlinked and connected to each other, therefore to avoid repetition of appreciation of evidence and for the sake of brevity, I discussed them together.

For the sake of proper marshaling, evidence are categorized as an oral evidence and documentary evidence.

ORAL & DOCUMENTARY EVIDENCE :

16. In order to prove the guilt of the accused, the prosecution has relied on testimony of PW1 Sopan Vitthal Pawar- the informant, PW2 Santosh Ahilaji Dhiwar- Conductor, PW3 Prathmesh Bhalchandra Pawar- spot and seizure panch, PW4 Dr. Dipak Balasaheb Misal- the Medical Officer, PW5 Kiran Subhash Salunke- Investigating Officer.

17. PW1 informant Sopan Vitthal Pawar the driver attached to Shrirampur depot, reiterated the contentions as per his complaint.

In his cross-examination, he admitted that he has stated the police while lodging report that two persons entered through the door of passengers and beat him with kicks and fists blows. He also stated to the police that he transferred the passengers in his bus to another bus, parked his bus at Tarakpur bus stand and then lodged complaint against accused persons. He further admitted that he also stated to the police that all buttons of his uniform shirt were broken. But, all these facts are not mentioned in his complaint. The above omissions shows active involvement of the accused persons in commission of crime, but those are not mentioned in his complaint. These omissions fatal the prosecution case.

The informant further admitted that he can not state name and address of the persons who disclosed names of the accused persons to him. The informant also admitted that he came to know the name of the accused persons from the people, but he can not tell names of the accused persons. But, the Investigating Officer did not record the statement of any independent witness to verify the names of the accused persons. The informant further admitted that the accused persons are unknown to the informant. Investigating Officer did not conduct identification parade of the accused persons in his presence. He further admitted that the passenger's door was locked from inside at the time of incident.

The incident took place in front of DSP chawk and the distance between DSP chawk and spot of incident is 300 to 500 feet. The spot of incident is visible from DSP chawk. The CCTV cameras are installed there. The Investigating Officer did not collect CCTV footage from DSP chawk to prove the incident. The DSP chawk is heavy traffic road. Considering the above admissions, it appears that the testimony of this witness is not reliable.

18. PW2 Santosh Ahilaji Dhiwar is the conductor attached to Shrirampur Depot. He deposed that he was on his duty on 11.09.2023 in Bus No. MH 14 BT 4169 from Shrirampur to Pune. He reiterated his contention as per the statement.

In his cross-examination he admitted that he can not tell names of the accused persons present before the Court. He can not tell names and address of the people who disclosed the names of accused persons to him. The investigation Officer did not conduct identification parade of the accused persons in his presence. He further admitted that first time he saw accused persons in the Court. The above admissions shows that this witness do not know names and address of accused persons. He has not identified accused persons present in the Court. He can not tell names of people who disclosed names of accused persons. He further admitted that the Investigating Officer did not conduct identification parade. Hence, the possibility can not ruled out that the accused are falsely implicated in this case.

He further admitted in his cross-examination that he did not hand over any document to the Investigating Officer to show that on the day of incident he was present on duty. The spot of incident can easily be seen from DSP Chawk. Considering these admissions, prosecution failed to prove that the conductor was public servant and present on duty on the day of incident. The testimony of this witness is also not reliable. Considering the cross-examination of this witness it appears that he deposed as per his statement. On the day of incident he was unknown to the accused persons. Investigating Officer did not conduct the identification Parade. The spot of incident can be easily seen from DSP Chawk. There is CCTV camera in DSP Chawk. The incident occurred in public place, in presence of the passengers but no independent witness came on record nor any statement was recorded. Hence, the testimony of this witness can not be reliable.

There is omission in deposition that he stated to the police while recording the statement that accused persons entered in the bus and beat the driver. The buttons of uniform of driver were broken. Two persons were riding on motorcycle. The driver gave horn to them. The above fact is not mentioned in his statement. The above omissions are important which show active involvement of accused persons. Hence, these omissions are fatal to prosecution. Hence, the testimony of this witness can not be reliable.

19. PW3 Prathmesh Bhalchandra Pawar is the spot and seizure panch. He deposed that PSI Salunke called him for preparing spot panchnama near DSP Chawk and in his presence seizure panchnama of shirt was prepared at Exh.20 and 21 respectively.

In his cross-examination, he admitted that he did not hand over the written order from the senior officer to the Investigating Officer about appointing as a panch for panchnama. From DSP Chawk the spot of incident can easily seen. At the time of panchnama the informant was in civil dress. He do not know the name and address of the informant. The informant has not produced any documentary evidence showing that he is public servant. After 13.09.2024 he has not visited to police station for preparing any panchnama. Upon perusal of the cross-examination of this witness, it appears that this witness is a public servant and without written order from his senior officer he left for preparing spot panchnama and seizure panchnama. It create doubt about preparing spot and seizure panchnama in his presence. Hence, the testimony of this witness is not reliable.

20. PW4 Dr. Dipak Balasaheb Misal is the Medical Officer. He deposed that the informant Sopan Pawar visited the government hospital on 11.09.2023 at about 6.30 p.m.. After examination of the informant he found injury, laceration 1x1 cm on lower lip, red and black in colour. The age of the injury was more than 2 hours and simple in nature. After examination of the patient he issued medical certificate Exh.24.

In his cross-examination he admitted that the injury mentioned in the medical certificate can be possible if any person dashed to the window, door or iron things. The patient did not tell how many persons assaulted him and the same is not described in medical certificate. Considering the cross-examination of this witness it appears that the above injury is possible if any person dashed to the door or iron things. Hence, the medical certificate is not sufficient to prove that the accused persons assaulted to the informant.

21. PW5 Kiran Subhash Salunke is the Investigating Officer. He deposed that he received complaint, F.I.R. He prepared spot panchnama Exh.20, seizure panchnama Exh.21. He obtained medical certificate of injured Exh.24, recorded statement of the witnesses and after completion of investigation filed charge-sheet against the accused persons.

In his cross-examination he admitted that the spot of incident can be easily seen from DSP Chawk. The CCTV camera are installed in the DSP Cahwk and they are in working condition. He has not collected CCTV footage during investigation. The CCTV footage would be a strong evidence to prove the guilt of accused persons in this case. But the investigating officer failed to collect the same. At the time of incident the accused were unknown to the informant. Names of the accused persons were came to know from the people. The Investigating Officer did not record statements of those persons who disclosed the names of accused persons.

The incident took place in presence of the passengers. But neither any independent witness came on record nor their statements came to be recorded by the Investigating Officer, which creates doubt about the incident. The Investigating Officer also did not collect tickets of the passengers and not recorded their statements which also creates doubt about the incident.

22. Considering the cross-examination of all witnesses, it seems that they are not corroborating to each other. The incident took place in public place in presence of passengers, the name of the accused also came to know from the passengers, but the Investigating Officer did not record the statements of passengers. He also not conducted the identification parade of the accused persons. The informant-driver was unknown to the accused. No any independent witness came on record. Thus, the prosecution failed to prove that the incident took place in the S.T. Bus.

23. The prosecution also failed to prove that the accused restrained the public servant from discharging his official duty and also failed to prove that he voluntarily caused hurt to the public servant by fists and kicks blows. The prosecution also failed to prove that the informant-driver was public servant and was present on his duty on the day of incident. Thus, the charges levelled against the accused persons are not proved beyond reasonable doubt. To prove the offence punishable under section 353 and other sections of the Indian Penal Code, the essential ingredients are not proved by the prosecution.

24. It is pertinent to note that this Court is guided by the guidelines given by the Hon'ble Supreme Court in the case of ***B.N. John Vs. State of U.P. (2025) AIR SC 759***; wherein the Hon'ble Supreme Court held that a close examination of Section 353 of Indian Penal Code, would indicate that not only obstruction but actual use of criminal force or assault to the public servant is necessary. The collective reading of evidence does not reveal the use of force or assault by accused against any public servant whereby said public servant was unable to discharge his duty.

25. Analyzing the law in respect of Section 353 along with other offences on a touchstone of above case law, what is required is there has to be criminal intend on the part of accused whereby there is a deterrence to the public servant from discharging his duty. It is necessary ingredients in section 353 of the Indian Penal Code that the present accused should have assaulted the public servant or used criminal force with intend to prevent or deter public servant from discharging his duty. Considering the evidence on record, the prosecution failed to prove the case beyond reasonable doubt.

26. I am of considered view that, in view of above guidelines by Hon'ble Supreme Court, the prosecution has not been able to prove the charges against the accused. Therefore, the prosecution has miserably failed to prove that the informant is the public servants and present on his duty on the day of incident. The

prosecution also failed to prove that the accused restrained the public servant while discharging his public duty by voluntarily causing hurt to the informant by fists and kicks blows, abused him in filthy language and also committed criminal intimidation by threatening to the informant, with intend to cause alarm. The facts and circumstances of the case does not warrant any grant of compensation and hence, no order thereof is passed. For the above reasons, I answered point nos. 1 to 6 in the negative.

AS TO POINT NO. 7 :

27. The prosecution has failed to adduce sufficient, cogent and convincing evidence to prove the guilt of the accused beyond reasonable doubt, therefore, the accused is liable to be acquitted. Hence, in answer to point no.7, I proceed to pass following order -

: <u>ORDER</u> :	
(1)	Accused no.1 Mujib @ Bhurya Ajj Khan and no.2 Arif Jabir Khan are hereby acquitted vide section 235 (1) of the Code of Criminal Procedure, for the offences punishable under section 353, 332, 341, 323, 504, 506 r/w.34 of the Indian Penal Code.
(2)	Bail bond of accused stand cancelled. Surety be discharged.
(3)	Both accused shall furnish PB & SB of Rs. 15,000/- each for the purpose of section 437-A of the Code of Criminal Procedure, which shall be valid for six months.

<p>(4)</p>	<p>The seized vehicle bearing registration No. MH 16 DB 3131 is already returned to its registered owner on Supurtnama by the Court. He is allowed to retain the same and is at liberty to dispose of or otherwise deal with the said vehicle as per his wish, after appeal period is over.</p>
<p>(5)</p>	<p>Muddemal Article A i.e. uniform shirt of the informant and Article B i.e. photographs being worthless, be destroyed after appeal period is over.</p>
	<p>The Judgment is dictated, delivered and pronounced in Open Court.</p>

Date : 03.06.2026.
Ahmednagar.

(Rajesh M. Tayade)
Additional Sessions Judge,
Ahmednagar.

Part 'C'

[Para 44(iii) 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)
PW1	Sopan Vitthal Pawar (Exh.14)	Other witness
PW2	Santosh Ahilaji Dhiwar (Exh.17)	Eye-witness
PW3	Prathmesh Bhalchandra Pawar (Exh.19)	Panch witness
PW4	Dr. Dipak Balasaheb Misal(Exh.23)	Medical Officer
PW5	Kiran Subhash Salunke(Exh.29)	Investigating Officer

B. Defence witnesses, if any :-

Rank	Name	Nature of Evidence (Eye witness, Police witness, Expert witness, medical witness, panch witness, other witness)
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C. Court witnesses, if any :-

Rank	Name	Nature of Evidence (Eye witness, Police witness, Expert witness, medical witness, panch witness, other witness)
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LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS

A. Prosecution :

Sr.No.	Exhibit	Description
1.	PW1 :- Exh.P-15	Report
2.	PW1 :- Exh.P-16	FIR
3.	PW3 :- Exh.P-20	Spot panchnama
4.	PW3 :- Exh.P-21	Seizure panchnama
5.	PW4 :- Exh.P-24	Medical Certificate

B. Defence :

Sr. No.	Exhibit	Description
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C. Court Exhibits :

Sr. No.	Exhibit	Description
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D. Material Objects :

Sr.No.	Material Object Number	Description
1.	Article A	Uniform shirt of the informant
2.	Article B	Photographs

Date : 03.06.2026
Ahmednagar.

(Rajesh M. Tayade)
Additional Sessions Judge,
Ahmednagar.