

MHAU030110902018



Presented on	:	28.08.2018
Registered on	:	28.08.2018
Decided on	:	16.06.2026
Duration	:	<u>07</u> Y. <u>09</u> M. <u>19</u> D.

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
AT : AURANGABAD.

Presided over by : K. M. Kayangude
(Date of Judgment : 16th Day of June, 2026)

Regular Criminal Case No.1526/2018

Exh. No.70

Crime No.I-343/2017 registered with Kranti Chowk Police Station, Aurangabad, Tq. Dist. Aurangabad.

Complainant/ Prosecution	:	The State of Maharashtra, Through : Police Station Officer, Kranti Chowk Police Station, Aurangabad, Tq. & Dist. Aurangabad.
Asst. Public Prosecutor	:	Smt. M. S. Raut.
Accused	:	Dilip Yashwanta Hake, Age : 44 years, Occu. Service, R/o. HUDCO, "N" Sector, C-5/3, Gajanan Nagar, TV Center, Aurangabad.
Advocate for accused	:	Shri. A. K. Thakare

Part 'B'

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

Date of Offence	:	27.02.1999 or prior to that
Date of FIR	:	06.04.2017

Date of Charge-sheet	:	28.08.2018
Date of Framing of Charge	:	18.06.2019
Date of commencement of evidence	:	10.01.2023
Date on which Judgment is reserved	:	09.06.2026
Date of the Judgment	:	16.06.2026
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 Section 428, Cr.PC.
1	Dilip Yashwanta Hake	--	--	U/Sec. 420, 468, 471 IPC	Acquitted	---	---

Part 'C'

(Annexed with Judgment)

: J U D G M E N T :

[Delivered on 16th Day of June, 2026]

The accused is charged with the offence punishable under Sections 420, 468 and 471 of the Indian Penal Code (for short, "IPC").

2] Prosecution case, in brief, is as under:-

On 6th April, 2017, Tushar Kashinathrao Shisode, the Treasurer of Vivekanand Shikshan Sanstha, lodged a First Information Report alleging that the accused, Dilip Yashwanta Hake, had secured employment as a Laboratory Assistant in the said institution by producing a caste certificate showing that he belonged to the "Dhanwar" caste, which was claimed to be a

Scheduled Tribe. It was alleged that, on the basis of the said Scheduled Tribe certificate, the accused obtained appointment in the Sanstha against a post reserved for candidates belonging to the Scheduled Tribes category.

3] Thereafter, the said institution forwarded the caste certificate dated 04.12.1991 to the Caste Certificate Scrutiny Committee for verification and validation in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

4] Upon conducting the requisite inquiry, the Scrutiny Committee came to the conclusion that the accused had obtained a false caste certificate. Consequently, the Committee declared the caste certificate of the accused to be invalid and, accordingly, cancelled and confiscated the same. The Scrutiny Committee also authorised the Principal of Vivekanand Arts, Sardar Dalipsing Commerce and Science College, Samarth Nagar, Aurangabad, to initiate criminal prosecution against the accused.

5] Pursuant thereto, on the basis of the said First Information Report, a crime came to be registered against the accused for the offences punishable under Sections 420, 468 and 471 of the Indian Penal Code, along with Section 11 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified

Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

6] The investigation was initially entrusted to PSI Ahire and was subsequently transferred to PSI S.R. Chavan. During the course of investigation, the Investigating Officer recorded the statements of the witnesses and collected the caste certificate alleged to have been falsely obtained and used by the accused. Upon completion of the investigation and after collecting the requisite evidence against the accused, the Investigating Officer filed a charge-sheet before the Court for the aforesaid offences.

7] My learned predecessor framed charge (Exh.12) against the accused for the offence punishable under Section 420, 468 and 471 of the Indian Penal Code. The charge was read over and explained to the accused, to which they pleaded not guilty and claimed to be tried, taking the defence of total denial.

8] After completion of the prosecution evidence, the statement of the accused under Section 313(1)(b) of the Code of Criminal Procedure was recorded vide Exh.68. The accused denied all the incriminating circumstances appearing against him in the prosecution evidence. However, in defence, he did not choose to lead any oral or documentary evidence.

9] Heard the learned Assistant Public Prosecutor for the State and the learned advocate appearing for the accused. Upon

considering the evidence adduced on record, the following points arise for my determination, and my findings thereon are recorded as under:-

Sr. No.	Points	Findings
1)	Does the prosecution prove that, on 27.02.1999 or prior to that accused illegally obtained a caste certificate of Dhanvar cast No.91/MAG/ WS/ 1455/AR- 231 dated 04.12.1999, which was decided illegal by the Caste Scrutiny Committee, Aurangabad and accused filed it in Vivekanand Education Institute for the service of a post of Assistant Librarian, which was reserved for Scheduled Tribe candidate and thus accused cheated the said institution and thereby committed an offence punishable under Section 420 of the IPC?	.. In the negative.
2)	Does the prosecution prove that, during the aforesaid period, accused prepared forged caste certificate of Dhangar community and filed it to Vivekanand Education Institute, Aurangabad for the post of Assistant Librarian and used it the above said illegal act, intending that it shall be used for the purpose of cheating and thereby committed an offence punishable under Section 468 of the IPC?	.. In the negative.

3)	Does the prosecution prove that, during the aforesaid period, accused fraudulently or dishonestly used as genuine caste certificate which accused knew or had reason to believe at the time when used it to be a forged document and thereby committed an offence punishable under Section 471 of the IPC?	.. In the negative.
4)	What order ?	..As per final order.

REASONS

AS TO POINTS NO.1 AND 2:-

10] Both the points are interlinked and, therefore, are taken up together for discussion.

11] PW-1, the informant and Treasurer of Vivekanand Shikshan Sanstha; PW-2, who was the Principal of the said College; PW-3, the Administrative Superintendent of the College; PW-5, the Registrar of the College; and PW-8, who was also serving as the Principal of the College during the relevant period, have deposed that the accused was employed in the College as a Laboratory Assistant. According to these witnesses, the accused secured the said appointment on the basis of a Scheduled Tribe certificate produced by him.

12] The copy of the said caste certificate has been produced on record at Exh. 52, whereas the original certificate

forms part of the muddemal property of the case. The said certificate purports to have been issued by the Executive Magistrate, Sillod.

13] It is not the case of the prosecution that the accused himself fabricated or prepared the alleged forged caste certificate. Admittedly, the certificate in question purports to have been issued by the competent authority, namely, the Executive Magistrate, Sillod. The evidence on record further indicates that the said certificate was subjected to scrutiny by the Caste Certificate Scrutiny Committee in the course of its inquiry.

14] At the highest, the prosecution case suggests that the accused obtained a false caste certificate. However, merely because the caste claim of the accused came to be invalidated by the Scrutiny Committee, it cannot automatically be inferred that the certificate itself was a forged document. In order to establish the offences punishable under Sections 468 and 471 of the Indian Penal Code, the prosecution was required to prove that the document in question was forged and that the accused had either forged the same or knowingly used it as a genuine document despite having knowledge or reason to believe that it was forged.

15] In the present case, there is no evidence on record to indicate that the certificate at Exh. 52 was fabricated by the accused or that it had not been issued by the competent authority. Significantly, the cross-examination of the Investigating Officer

reveals that no inquiry whatsoever was conducted with the office of the Executive Magistrate, Sillod, to verify whether the certificate had in fact been issued from that office. The prosecution has not examined any witness from the said office, nor has it produced any record to demonstrate that the certificate was not issued by the competent authority.

16] Furthermore, the report and order of the Caste Certificate Scrutiny Committee do not disclose that the certificate itself was forged or fabricated, or that it had not been issued by the competent authority. The finding of the Scrutiny Committee is confined to the invalidation of the caste claim of the accused and the consequent cancellation and confiscation of the caste certificate.

17] Therefore, in the absence of any cogent evidence establishing that the certificate at Exh. 52 was a forged document, this Court is unable to hold that the prosecution has proved the ingredients of forgery. Mere invalidation of a caste certificate by the Scrutiny Committee, by itself, is insufficient to conclude that the document is forged. Consequently, there is no evidence on record to suggest that the caste certificate (Exh. 52) is a forged document.

18] At the highest, from the facts and circumstances of the case and the evidence available on record, it may be possible to infer that the documents relied upon by the accused before the

Executive Magistrate, Sillod, while obtaining the caste certificate, might have been false or otherwise not genuine. However, such an inference would be purely speculative. It is neither the case of the prosecution that the accused had produced false supporting documents before the Executive Magistrate for obtaining the caste certificate, nor has any evidence been adduced to substantiate such an allegation.

19] The prosecution has not investigated the nature of the documents submitted by the accused before the competent authority, nor has it brought on record any material to demonstrate that those documents were fabricated or false. In the absence of any such evidence, no adverse inference can be drawn against the accused on that count.

20] Consequently, the evidence adduced through the office bearers and employees of Vivekanand Shikshan Sanstha merely establishes that the accused obtained employment on the basis of the caste certificate produced by him. Such evidence, by itself, is wholly insufficient to prove that the accused had forged the caste certificate or had knowingly used a forged document as genuine with an intention to secure wrongful gain. Therefore, the testimony of these witnesses does not advance the prosecution case so far as the offences relating to forgery and use of a forged document are concerned.

21] At this stage, it would be appropriate to advert to the evidence of PW-9, who was serving as the Inquiry Officer in the Vigilance Cell attached to the Caste Certificate Scrutiny Committee. He deposed that, during the course of vigilance inquiry, contradictory entries were noticed in relation to the caste claim of the accused. On the basis of the report submitted by the Vigilance Cell, the Scrutiny Committee proceeded to invalidate the caste claim of the accused and, consequently, cancelled and confiscated the caste certificate produced by him.

22] It is further evident from the copy of the order passed by the Scrutiny Committee that the Principal of the concerned college was authorised to institute prosecution under Section 11 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Maharashtra Act No. XXIII of 2001).

23] However, the evidence of PW-9 and the order of the Scrutiny Committee merely establish that the caste claim of the accused was invalidated and that the caste certificate came to be cancelled and confiscated. Such evidence, by itself, does not establish that the accused had forged the caste certificate or that the certificate had not been issued by the competent authority.

24] At this juncture, it is worthwhile to reproduced the said Section 11 which reads as under :

“11. Offences and penalties.— (1) Whoever,—

*(a) obtains a false Caste Certificate by furnishing false information or filing false statement or documents or by any other fraudulent means ; or
(b) not being a person belonging to any of the Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category secures any benefits or appointments exclusively reserved for such Castes, Tribes, or Classes in the Government, local authority or any other company or corporation owned or controlled by the Government or in any Government aided institution, or secures admission in any educational institution against a seat exclusively reserved for such Castes, Tribes or Classes or is elected to any of the elective offices of any local authority or Co-operative Society against the office, reserved for such Castes, Tribes or Classes by producing a false Caste Certificate ; Shall, on conviction, be punished, with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years or with fine which shall not be less than two thousand rupees, but which may extend upto twenty thousand rupees or both.*

(2) No court shall take cognizance of an offence punishable under this section except upon a complaint, in writing, made by the Scrutiny Committee or by any other officer duly authorised by the Scrutiny Committee for this purpose.”

25] Therefore, a plain reading of the provisions of Section 11 of said Act, makes it clear that sub-section (2) thereof mandates that no Court shall take cognizance of an offence punishable under the said Act except upon a complaint in writing made by the Scrutiny Committee or by an officer duly authorised by the Scrutiny Committee for that purpose. Thus, filing of such complaint by the Scrutiny Committee or its authorised officer is a condition precedent for taking cognizance of the offence under Section 11 of the Act.

26] In the present case, the order passed by the Scrutiny Committee specifically authorised the Principal of the concerned college to institute prosecution under Section 11 of the said Act. Therefore, it was incumbent upon the said Principal to file an appropriate complaint before the competent Court for taking cognizance of the offence contemplated under Section 11 of the Act.

27] However, instead of adopting the procedure prescribed under the statute, an office bearer of the Sanstha lodged a First Information Report with the police. The police thereafter registered the crime, conducted the investigation and submitted a charge-sheet before the Court. Such a course of action is not contemplated under Section 11(2) of the aforesaid Act. Since the mandatory requirement of institution of a complaint by the Scrutiny Committee or its duly authorised officer has not been complied with, the very cognizance taken on the basis of the police

report stands vitiated so far as the offence punishable under Section 11 of the Act is concerned.

28] Consequently, the initiation of criminal proceedings through registration of the FIR, the investigation conducted by the police and the taking of cognizance by the Court on the basis of the police report, in respect of the offence under Section 11 of the Act, are not sustainable in law.

29] In order to substantiate above proposition also to be relied on the Judgment of the Hon'ble Bomgay High Court relied by the accused on the case of **Suresh Subhashrao Bhoier Vs. Shrimati Hemlata d/o Bapurao Patil @ Mrs. Hemlata w/o Narendra Hingmire & anr. [2014 ALL MR (CRI) 1259]**, wherein the Hon'ble Bombay High Court by relying upon the Section 11(2) of the said Act quashed the FIR registered in that matter.

30] In the cumulative effect of the foregoing discussion, this Court has no hesitation in holding that the initiation of criminal proceedings against the present accused, so far as the offence punishable under Section 11 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 is concerned, by registration of an FIR was contrary to the mandatory procedure prescribed under the said Act. Consequently, the cognizance taken by the Court on the basis

of the police report, in the absence of a written complaint by the Scrutiny Committee or by the officer duly authorised by it, stands vitiated.

31] Apart from the aforesaid legal infirmity, the prosecution has also failed to discharge its burden of proving the charges levelled against the accused beyond reasonable doubt. The evidence adduced on record is insufficient to establish that the accused had forged the caste certificate or had knowingly used a forged document as genuine. The benefit arising out of these deficiencies in the prosecution case must necessarily enure to the accused.

32] Consequently, this Court is of the considered opinion that the prosecution has failed to prove the guilt of the accused for the offences with which he has been charged. The accused, therefore, deserves to be acquitted of the aforesaid charges. Accordingly, Points Nos. 1 to 3 are answered in the negative. In view of the findings recorded thereon, and in answer to Point No. 4, I proceed to pass the following order:

ORDER

- 1] The accused is hereby acquitted for the offence punishable under Sections 420, 468 and 471 of the Indian Penal Code vide section 248(1) of the Code of Criminal Procedure, 1973.
- 2] His bail bond stands cancelled and surety discharged.

- 3] Seized muddemal Original Caste Certificate of accused, be handover to the custody of Scrutiny Committee as per rules, after appeal period is over.
- 4] The accused shall comply with the provision under Section 437-A of the Code of Criminal Procedure, 1973 by furnishing personal bond of Rs.15,000/-.

[Dictated and Pronounced in open Court].

Date: 16.06.2026.

(K. M. Kayangude)
Chief Judicial Magistrate,
Aurangabad.

Encl : Part-C

Part 'C'

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

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

RANK	NAME	NATURE OF EVIDENCE
PW 1	Tushar Kashinath Shisode (Exh.17)	Informant/complainant
PW 2	Anil Shripatro Bhuktar (Exh.29)	Witness
PW 3	Sanjay Kishanrao Pawar (Exh.33)	Witness
PW 4	Amol Vishwanath Hake (Exh.35)	Witness
PW 5	Prabhakar Jayvant More (Exh.41)	Witness
PW 6	Shivaji Raysing Chavan (Exh.47)	Investigating Officer
PW 7	Sanjay Baburao Ahire (Exh.55)	Investigating Officer
PW 8	Baburao Sundarrao Solunke (Exh.58)	Witness
PW 9	Shripad Vasant Rao Mehatre (Exh.65)	Witness

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
NIL		

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
NIL		

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

Sr.No.	Exhibit Number	Description
1	Exhibit P-18/PW 1	Copy of appointment order of accused
2	Exhibit P-21/PW 1	Order of Scrutiny Committee dated 10.02.2017.
3	Exhibit P-22/PW 1	Authority letter.
4	Exhibit P-23/PW 1	Complaint.

5	Exhibit P-24/PW 1	Printed FIR
6	Exhibit P-48/PW 6	Letter by PSI Sanjay Ahire to Vivekanand College dated 09.04.2017 regarding calling information.
7	Exhibit P-49/PW 6	Letter by Police to Scrutiny Committee dated 09.07.2018 for calling original caste certificate.
8	Exhibit P-50/PW 6	Letter by Scrutiny Committee to Police Station Kranti Chowk dated 9.7.2018.
9	Exhibit P-51/PW 6	Seizure panchanama.
10	Exhibit P-52/PW 6	Copy of Caste Certificate.
11	Exhibit P-53/PW 6	Muddemal receipt.
12	Exhibit P-56/PW 7	Letter by Principal, Vivekanand College to Police Station Kranti Chowk.
13	Exhibit P-59/PW 8	All collective documents in respect of Personal File of accused.
14	Exhibit P-66/PW 9	Copy of letter by Vivekanand College to Scrutiny Committee dated 03.09.2007.
15	Exhibit P-67/PW 9	Copy of order dated 10.02.2017 by Scrutiny Committee.

B. Defence:

Sr.No.	Exhibit Number	Description
NIL		

C. Court Exhibits :

Sr.No.	Exhibit Number	Description
NIL		

D. Material Objects :

Sr.No.	Exhibit Number	Description
1	---	Caste Certificate of accused.

Date: 16.06.2026.

(K. M. Kayangude)
Chief Judicial Magistrate,
Aurangabad.

CERTIFICATE

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

Name of the Stenographer : A. B. Pawar,
Stenographer Grade-II.

Court : (Shri. K. M. Kayangude) C.J.M.,
Aurangabad

Date : 16/06/2026

Judgment signed by
the Presiding Officer on : 16/06/2026

Order uploaded on : 16/06/2026