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Part 'A'

IN THE COURT OF ADDITIONAL SESSIONS JUDGE

AT VAIJAPUR, DISTRICT AURANGABAD

(Present: Smt.S.K. Upadhyay)

[Date of the Judgment: 22nd April 2026]

SESSIONS CASE NO.191/2012

(OLD SESSIONS CASE NO. 311/1992)

(OLD RCC NO.11/1992)

Exh.No.134

FIR/Crime No.	180/1990
Police Station:	Vaijapur, Tq.Vaijapur, District Aurangabad.
Prosecution	: The State Of Maharashtra, Through - Police Station Officer, Vaijapur Police Station, Tq. Vaijapur, Dist. Aurangabad.
Represented By	: Shri K.S.Gande – Learned A.P.P. for the State
Versus	
Accused	: 1. Balande Shakuntal Bhosle Age : 50 Yrs., R/o: Padegaon, Tq. Kopargaon, Dist. Ahmednagar.

	2. Pratap Ranganath Bhosle Age : 35 Yrs., Padegaon, Tq. Kopargaon, Dist. Ahmednagar.
	3. Jaising Gavchand Kale Age : 30 Yrs., Padegaon, Tq. Kopargaon, Dist. Ahmednagar.
	4. Hiwaldar Chilkyia Bhosle (Acquitted as per judgment passed on 12.08.2002) Age : 55 years, R/o : As above
	5. Kagdya Maroti Chavan R/o: Padegaon, Tq. Kopargaon, Dist. Ahmednagar
	6. Dastya Maroti Chavan R/o: Padegaon, Tq. Kopargaon, Dist. Ahmednagar
	7. Habukya Maroti Chavan Age : 35 years, R/o: Padegaon, Tq. Kopargaon, Dist. Ahmednagar.
	8. Badodya Hiwaldar Bhosle (Dead) Age : 45 years, R/o: Padegaon, Tq. Kopargaon, Dist. Ahmednagar.
	9. Bharmya Hiwaldar Bhosle (Acquitted as per judgment passed on 12.08.2002)
	10. Ravya Hiwaldar Bhosle Age : 38 years, R/o: Padegaon, Tq. Kopargaon, Dist. Ahmednagar.
	11. Dudhkalya Balandya Bhosle (Acquitted as per judgment passed on

		12.08.2002)
		12. Biskitya Balandya Bhosle (Acquitted as per judgment passed on 12.08.2002)
		13. Dushing Hiwaldar Bhosle (Acquitted as per judgment passed on 12.08.2002)
Represented By	:	Mr.S.B.Katare, Learned advocate for accused

J U D G M E N T
(Delivered on 22nd Day of April 2026)

1. Initially case bearing RCC No. 11/1992 was instituted before JMFC, Vaijapur on 14.11.1990 who had committed the case to District and Sessions Court, Aurangabad on 05.11.1992. It was registered as Sessions Case No. 311/1992. Thereafter this case was transferred to District and Sessions Court, Vaijapur and it was re-registered as Sessions Case No. 191/2012.

2. The accused No.1 Balande Shakuntal Bhole, accused no.2 Pratap Ranganath Bhosle and accused no.3 Jaising Gavchand Kale(as per serial number of main charge-sheet), accused no.5 Kagdya Maroti Chavan, accused no.6 Dastya Maroti Chavan, accused no.7 Habukya Maroti Chavan and accused no.10 Ravya Hiwaldar Bhosle (as per serial number 1 to 4 and 6 from the list of absconding accused of main charge-sheet) stand charge-sheeted for the offences punishable under Sections 397 read with Section 34 of the Indian Penal Code, 1860.

Factual matrix of the case are -

3. The prosecution case is that on 14.11.1990 informant Yadvendranath Vijaypratap Yadav is tanker-driver in Radiant Transport Services, Dackyard Road, Mumbai, had lodged report that, on 13.11.1990 he was carrying said tanker filling with soap oil from BBF Sain Company to Waluj to be delivered to Colgate Indian Ltd. Company. At that time Pramodkumar was the cleaner on said tanker. At about 09.00 p.m. they had stopped their tanker near Bothra Petrol pump at Vaijapur and taken the meal in hotel adjacent to said petrol pump. At about 10.00 p.m. they had crossed rail track near Rotegaon railway station, 2-3 kilometer ahead at Jerul Phata front wheel of his tanker was punctured. Therefore they stopped tanker from the side of road and were engaged to shift the wheel. At that time 8 to 10 unknown persons wearing black and khaki colour half pant and banyan came there and they surrounded them. Out of them, 2-3 persons were having hockey sticks and 2-3 persons were having sticks and on seeing them informant and cleaner took tomis in their hands and thereby they shows they oppose them. Therefore said person ran away from there and scattered themselves from both side of road and started pelting stones towards them. Due to which informant sustained injuries on legs, head and chest and fell down. Cleaner also sustained injuries on his person and fell down and on seeing them all accused persons came near them and assaulted them by sticks and hockey sticks. Due to which they both sustained injuries. Said persons dragged them to right side field and robbed Rs.1500/- from the pocket of informant and took out watch from cleaner. Therefore the informant lodged report.

4. Upon the aforesaid report, crime No.180/1990 came to be registered. The investigation was taken up by Shesherao Baburao Suryawanshi. He done details investigation and after completion of investigation he submitted charge-sheet in the court.

5. The offence under section 397 of the IPC is exclusively triable by the Sessions Court. Therefore, the learned JMFC, Vaijapur committed the case to Sessions Court, Vaijapur.

6. My learned predecessor framed charge vide Exh.77 against the accused Bharmya Hiwaldar Bhosle, Hiwaldar Chilkyia Bhosle, Dudhkalya Balandya Bhosle, Biskitya Balandya Bhosle and Dushin Hiwaldar Bhosle. The charge was read over and explained to accused in vernacular. They pleaded not guilty and claimed for trial.

7. At the trial, the prosecution examined four witnesses. Accused Bharmya Hiwaldar Bhosle, Hiwaldar Chilkyia Bhosle, Dudhkalya Balandya Bhosle, Biskitya Balandya Bhosle and Dushing Hiwaldar Bhosle are acquitted from the offence punishable under section 397 of IPC vide judgment dated 12.08.2002 by my learned predecessor.

8. In view of warrant report vide Exh.124 and death certificate Exh.125 of accused **Badod Hiwaldar Bhosle** filed on record dated 01.12.2014 (as per Sr.No.8 of main charge-sheet), appears that accused Badod Bhosle is expired on 21.06.2005. Hence, the proceeding stands abated against him.

9. This case is of 35 years old. The FIR is registered 14.11.1990 and charge-sheet was filed on 27.01.1992 for the offence punishable under section 397 of IPC. Record shows that charge-sheet is filed against as many as 13 accused. Out of them five accused including accused no. 4, 9, 11, 12 and 13 were arrested by police and other accused remained absconding prior to filing of charge-sheet. The charge was framed and trial was completed against accused no.4, 9, 11, 12 and 13 and they were acquitted by judgment dated 12.08.2002.

10. Since last many years several non-bailable warrants, proclamation were also issued against rest of absconding accused but police failed to secure the presence of absconding accused before the court. Therefore the case is kept in dormant file.

11. No effective steps were taken by the prosecution to secure the presence of all accused. Hence, liberty was granted to prosecution to adduce evidence under section 299 of Cr.P.C. after necessary compliance under section 82 and 83 of Cr.P.C. The accused are declared proclaimed offender hence this court passed order below Exh.1 for inabsentia trial of the absconding accused.

12. The learned APP Shri K.S.Gande, tendered on record pursis Exh.134 to read and consider the evidence adduced on record against absconding accused.

13. Defence counsel is appointed for absconding accused to represent absconding accused. Accordingly charge was framed and compliance of section 356(8) of the B.N.S.S. is completed. The learned defence counsel Mr.Katare filed pursis Exh.135 dated 20.03.2026 to accept the cross-examination of witness recorded by the prosecution against the absconding accused.

14. The following points arise for my determination. I have recorded my findings thereon for the reasons to follow as under.

	Points	Findings
1.	Does the prosecution prove that on 13.11.1990 at about 10.00 p.m. on Aurangabad-Jalna road at Mile Stone No.2/119 stopping Tanker No. MCU-3052, accused committed robbery and at the time of committing robbery accused used deadly weapone like stones and sticks and caused grievous hurt to informant Yadvendranath Vijay Yadav and his cleaner and thereby committed an offence punishable under section 397 of IPC ?	No
2	What order ?	All accused are acquitted, as per final order

REASON

As to Point No.1 and 2 -

15. To prove the guilt of accused, prosecution examined four witnesses.

16. Rambhau Pandit/PW-1 deposed that since 10-11 years back incident occurred on Aurangabad road near Jarul phata at about 10.00 p.m. He was talking with Nana Khandu, Balasaheb. At that time they were heard shouting Bachao, Bachao. Therefore they went there and saw that 5-6 persons were beating tanker driver. Said persons threatened them not to come there, therefore they did not go there. At the spot of incident there was dark therefore he could not identify said persons.

17. Dalsing Jarwal/PW-2 was examined by prosecution who is panch witness on memorandum statement of accused but he did support the prosecution story. Therefore his evidence is not much helpful to the prosecution.

18. Further prosecution examined Bansilal Soni/PW-3, who is spot panch of spot panchnama. However he also turned hostile and not supported the contents of panchnama except his signature.

19. Lastly prosecution has examined Sheshrao Suryawanshi/PW-4 investigating officer and he deposed about the steps of investigation conducted by him.

Analysis of Evidence -

20. Evidence of PW-1 is only material evidence. On scrutinize of evidence of Pw-1 no incriminating evidence against these proclaimed offenders come on record. PW-1 failed to testify identity of accused including absconding accused. No identification parade is conducted by

investigating officer for identifying accused. No cogent, credible and clinching evidence come on record against absconding accused.

21. The offence was allegedly committed on 13.11.1990 i.e. more than 35 years ago and charge-sheet was filed in the year 1992. The matter is pending since then. The police machinery has failed to secure the presence of absconding accused as well as all the prosecution witnesses. Even if the accused are arrested today, the evidence adduced by prosecution is not sufficient to convict them. Hence, no evidence has come against absconding accused. Therefore I answer point no.1 in the negative and in answer to point no.2, I pass the following order -

ORDER

1. Accused 1 Balande Shakuntal Bhosle, accused no.2 Pratap Ranganath Bhosle, accused no.3 Jaising Gavchand Kale, accused no.5 Kagdya Maroti Chavan, accused no. 6 Dastya Maroti Chavan, accused no.7 Habukya Maroti Chavan, accused no.10 Ravya Hiwaldar Bhosle are acquitted of the offences punishable under section 397 of the Indian Penal Code, vide section 235(1) of the Code of Criminal Procedure.
2. Muddemal property if not returned to complainant, be returned to complainant, after the period of appeal is over.

(Judgment dictated and pronounced in open court).

Date: 22.04.2026

(Smt.S.K. Upadhyay)
Addl.Sessions Judge-1,
Vaijapur.

CERTIFICATE

I affirm that the contents of this PDF file judgment are same, word to word, as per the original judgment.

Name of the Stenographer : R.V.Kulkarni

Name of the Court : Smt. S. K. Upadhyay, District Judge-1, Vaijapur.

Date of deliver judgment : 22.04.2026

Date of direct dictation : 22.04.2026

Judgment checked

by the presiding officer on : 22.04.2026

Judgment signed on : 22.04.2026

Judgment uploaded on : 22.04.2026