

MHBI010010352020



Presented on : 27.03.2020
 Registered on : 27.03.2020
 Decided on : 24.03.2026
 Duration : 05 Y 11 M 27 D

Part 'A'
(Title Page of Judgment)

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| | <u>IN THE COURT OF ADDL.SESIONS JUDGE, BEED</u> Present : S.S.Ghorpade, Addl. Sessions Judge, Beed Date : 24.03.2026 <u>Sessions Case No.59/2020</u> | |
| | Crime No.219/2019 Beed Rural Police Station, Tal. Beed, Dist. Beed Offences punishable under Sections 397, 386, 307, 506 of the Indian Penal Code and section 4/25 of Arms Act. | |
| Complainant | : | State of Maharashtra Through Police Officer, Beed Rural Police Station, Dist. Beed. |
| Represented by | : | Shri. A.S.Tandale, APP for the State. |
| Accused | : | 1] Shaikh Amar Shaikh Akbar Age: 30 years, R/o. Indraprasth Colony, Balepeer, Beed. 2] Sayyed Shahrukh Sayyed Noor Age: 23 years, R/o. Bharat Bhushan Nagar, Balepeer, Beed. |

| | | |
|----------------|---|--|
| | | <p>3] Anwarkhan alias Gujarkhan Mirzakhan Age: 38 years, R/o. Indraprasth Colony, Gulshan Nagar Balepeer, Beed.</p> <p>4] Sayyed Naser Sayyed Noor Age: 30 years, R/o. Bharat Bhushan Nagar, Balepeer, Beed.</p> <p>5] Shaikh Shahabaj Shaikh Kalim Age: 31 years, R/o. Rosahanpura Beed.</p> <p>6] Shaikh Ubed Shaikh Babu. Age: 28 years, R/o. Bangarnala Bhart Bhushan Nagar Beed now at Aurangabad</p> <p>7] Shaikh Imran alias Kala Shaikh Rashid Age: 30 years, R/o. Kazinagar, Balepir, Beed</p> <p>8] Awej Kazi Mujid Kazi, Age: 26 years, R/o. As above,</p> <p>9] Shaikh Mazhar alias Hafmurder Shaikh Rahim Age: 38 years, R/o. Bangarnala, Bharat Bhushan Nagar Balepir, Beed.</p> |
| Represented by | : | <p>Shri. V.S.Sanap, Ld. Adv. for accused No.1.</p> <p>Shri. Syed Azarali, Ld. Adv. for accused No. 2 to 4 and 7</p> <p>Shri. S.H.Shaikh, Ld. Adv. for accused No.5, 6 and 9</p> <p>Shri. Syed Sajed Ali, Ld. Adv. for accused No.8.</p> |

Part 'B'

| | | |
|--------------------------------------|---|------------|
| Date of offence | : | 02.08.2019 |
| Date of FIR | : | 02.08.2019 |
| Date of charge-sheet | : | 31.12.2019 |
| Date of Framing of charges | : | 10.07.2025 |
| Date of commencement of evidence | : | 12.09.2025 |
| Date on which judgment is reserved | : | ----- |
| Date of the Judgment | : | 24.03.2026 |
| Date of the Sentencing Order, if any | : | ---- |

Accused Details

| Rank of accused | Name of accused | Date of arrest | Date of Released on bail | Offences Charged with | Whether acquitted or convicted | Sentence imposed | Period of Detention Undergone during Trial for the purpose of Section 428, Cr.P.C. |
|-----------------|-------------------------------------|----------------|--------------------------|---|--------------------------------|------------------|--|
| 1) | Shaikh Amar Shaikh Akbar | 07.10.19 | ---- | Offences punishable u/s.397, 386, 307, 506 of IPC and section 4/25 of Arms Act. | Acquitted. | --- | 07.10.19 to 24.03.26 |
| 2) | Sayyed Shahrukh Sayyed Noor | 23.10.19 | ---- | --do-- | Acquitted. | --- | 23.10.19 to 24.03.26 |
| 3) | Anwarkhan alias Gujarkhan Mirzakhan | 23.10.19 | ---- | --do-- | Acquitted. | --- | 23.10.19 to 24.03.26 |
| 4) | Sayyed Naser | 07.10.19 | ---- | --do-- | Acquitted. | --- | 07.10.19 to |

| | | | | | | | |
|----|--|--|----------|--------|------------|-----|----------------------|
| | Sayyed Noor | | | | | | 24.03.26 |
| 5) | Shaikh Shahabaj Shaikh Kalim | 04.10.19 | ---- | --do-- | Acquitted. | --- | 04.10.19 to 24.03.26 |
| 6) | Shaikh Ubed Shaikh Babu | 18.10.19 | ---- | --do-- | Acquitted. | --- | 18.10.19 to 24.03.26 |
| 7) | Shaikh Imran alias Kala Shaikh Rashid | 18.10.19 | ---- | --do-- | Acquitted. | --- | 18.10.19 to 24.03.26 |
| 8) | Awej Kazi Mujid Kazi | 18.10.19 | 03.12.24 | --do-- | Acquitted. | --- | 18.10.19 to 03.12.24 |
| 9) | Shaikh Mazhar alias Hafmurder Shaikh Rahim | On 10.07.25 produced in production warrant | ---- | --do-- | Acquitted. | --- | 10.07.25 to 24.03.26 |

Part 'C'

List of Prosecution / Defence / Court Witnesses

A. Prosecution :

| Rank | Name of Witness | Nature of Evidence |
|------------------|----------------------------|--------------------|
| PW-1 (Exh.54) | Momin Akbar Momin Babamiya | Complainant |
| PW-2 (Exh.65) | Sachin Bhaskarrao Tambare | Seizure Panch |

| | | |
|-------------------|-------------------------------|------------------------|
| PW-3 (Exh.69) | Mahadeo Kalyan Khande | Spot panch |
| PW-4 (Exh.74) | Shaikh Jafar Shaikh Rashid | Witness |
| PW-5 (Exh.78) | Dr. Sudhir Kisanrao Raut | Medical Officer |
| PW-6 (Exh.92) | Revannath Chandrakant Dudhane | Police witness Carrier |
| PW-7 (Exh.94) | Momin Kausar Babamiya | Witness |
| PW-8 (Exh.104) | Yogesh Devidas Ubale | Police witness |
| PW-9 (Exh.107) | Pradip Datta Dolare | Investigating Officer |

B. Defence Witnesses, if any :

| Rank | Name of Witness | Nature of Evidence |
|------|-----------------|--------------------|
| -- | -- | -- |

C. Court Witnesses, if any :

| Rank | Name of Witness | Nature of Evidence |
|------|-----------------|--------------------|
| --- | --- | --- |

List of prosecution / defence / Court exhibits**A. Prosecution**

| Sr. No. | Exhibits Number | Description |
|---------|-----------------|---|
| 1) | Exh.55 (PW-1) | Complaint/statement |
| 2) | Exh.56 (PW-1) | Seizure panchnama |
| 3) | Exh.66 (PW-2) | Lr to P.S. Beed Rural from Beed S.T. Depo |

| | | |
|-----|----------------|---|
| 4) | Exh.67 (PW-2) | Memorandum Panchnama |
| 5) | Exh.70 (PW-3) | Spot panchanama/Crime Details Form |
| 6) | Exh.79 (PW-5) | Certificate of Injuries in Medico-legal case of complainant |
| 7) | Exh.93 (PW-6) | Lr. to FSL, Aurangabad |
| 8) | Exh.95 (PW-7) | N.C.R. No.199/2019 |
| 9) | Exh.96 (PW-7) | N.C.R. No. 465/2019 |
| 10) | Exh.108 (PW-9) | Letter to Agar Head, Bus. Depo. Beed from P.S. Beed Rural |
| 11) | Exh.109 (PW-9) | Lr. to Medical Officer Beed from P.S. Beed Rural |

B. Defence :

| Sr. No. | Exhibits Number | Description |
|---------|-----------------|-------------|
| -- | -- | -- |

C. Court Exhibits :

| Sr. No. | Exhibits Number | Description |
|---------|-----------------|---|
| 1 | 31 | Charge |
| 2. | 111 to 119 | Statements of accused u/s. 313 of Cr.P.C. |

D. Material objects :

| Sr. No. | Exhibits Number | Description |
|---------|-----------------|-------------|
| -- | -- | -- |

:: J U D G M E N T ::(Delivered on 24th March 2026)

1] Accused No.1 to 9 are prosecuted for offences punishable under sections 397, 386, 307, 506 of the Indian Penal Code (for short 'IPC'), sections 4/25 of Arms Act.

2] Brief facts of the case can be described as under :

Complainant Momin Akbar Momin Babamiya lodged complaint when he was in Government Hospital, Beed Ward No.5. He given the statement, he is owner of scrap business namely Muskan Bottle Scrap Traders and godown situated at Talegaon village on Nagar Road. Accused Gujjar Khan was working with him prior 15 to 20 years back. He left his job. Thereafter he started the work of assaulting the people, threatening, extortion of money. Prior to five years back, he threatened to the complainant and demanded the extortion money. At that time, due to his fear, he did not made the complaint. Prior to two years back, he assaulted his brother Momin Kausar Momin Babamiya and complaint was lodged against him at Shivajinagar Police station. He further alleged that on the day of incident on 02.08.2019 about 10.00 am, he went to his godown in the limits of village Talegaon. About 11.00 am one Shaikh Jafar came to his godown along with scrap in mini-door rickshaw. At that time, all the accused persons came there holing with sickle, knife, iron pipe and other weapons. At that time, two unknown persons kept sickle on neck his one labour Anwar and businessman Jafar and taken them in side. At that time four persons started beating to him and Rs.1,75,000/- taken

away forcibly. Accused Amar tried to assault in his stomach with knife but he stepped back side therefore, the said knife was struck on his thigh. Thereafter accused Shahrukh and other two persons assaulted him with the pipe and with the handle of sickle and hands on his back, head and tried to kill him. At that time, accused Amar threatened that if he will not pay the extortion amount of Rs.1,00,00,000/- within eight days, then he will kill his whole family and left the premises. Since from one month prior to incident accused Gujarkhan was demanding extortion money towards him. Thereafter, Anwar and Jafar had taken the complainant in the shop of his brother Kausar. Thereafter, immediately Gujarkhan and other accused threatened on mobile phone, if they filed the case then they will kill to him. Thereafter his brother and other persons made the call to the police and informed regarding the incident. Thereafter, complainant went to the hospital and admitted in the hospital. Thereafter complaint is taken by the API, Police Station Beed Rural in presence of medical officer and lodged the complaint.

3] Investigation was handed over to the investigating officer P.S.I. Dolare. Investigating officer went to the spot, prepared the spot panchnama, he has seized the clothes from the complainant, arrested accused, prepared memorandum panchanama, also seized weapons at the hands of accused, he collected medical certificate of the injured. He has sent the muddemal for chemical analysis, he recorded the statements of witnesses. After completion of investigation, he filed charge-sheet against accused in the Court of Judicial Magistrate First Class, Beed, Dist. Beed.

4] Judicial Magistrate First Class, Beed Dist. Beed found that the case is triable by Sessions Court therefore, he committed the case to this Court. Accused are in M.C.R. They produced before the Court. Charge framed against both accused at Exh.31 under sections 397, 386, 307, 506 of the Indian Penal Code and section 25 of Arms Act and it was read over and explained to them in vernacular, they pleaded not guilty to it and claimed to be tried.

5] Prosecution has examined in all 9 witnesses as mentioned in Format "C" and closed the evidence. Statements of accused as per section 313 of Cr.P.C. were recorded at Exh.111 to 119. Their defence is of total denial and false implication.

6] Heard Learned A.P.P. for the State and Ld. Advocates for the accused.

7] Considering the evidence, defence of the accused following points arose for determination and I have recorded findings for the reasons followed thereafter :-

| Sr. No. | Points | Findings |
|---------|--|---------------|
| 1) | Whether it is proved by the prosecution that on 02.08.2019 at about 11.00 a.m, in the Godown namely Muskan Bottle Scrap Traders in Talegaon Shivar, accused used deadly weapons i.e. scythe, knife and iron pipe and at the time of robbery or dacoity caused hurt | ..Not proved. |

to the complainant Momin Akbar and thereby committed an offence punishable under section 397 of the Indian Penal Code ?

- 2) Whether it is proved by the prosecution that on aforesaid date, time and place, accused put complainant and his family members and witnesses in fear of death in order to commit extortion and thereby committed an offence punishable under section 386 of the Indian Penal Code ? ..Not proved.
- 3) Whether it is proved by the prosecution that on aforesaid date, time and place, accused did act and assaulted complainant and witnesses with such intention or knowledge and under such circumstances that if by that act, you had caused the death of complainant or witnesses, you would have been guilty of murder and thereby committed an offence punishable under section 307 of the Indian Penal Code ? ..Not proved.
- 4) Whether it is proved by the prosecution that on aforesaid date, time and place, accused committed criminal intimidation to complainant and witnesses and thereby committed an offence punishable under section 506 of the Indian Penal Code ? ..Not proved.
- 5) Whether it is proved by the prosecution that on aforesaid date, time and place, accused found in possession of knife without license and thereby contravened the provision of section 4 punishable under section 25 of the Arms Act ? ..Not proved.

6) What order ?

..As per final
order.

:: REASONS ::

AS TO POINTS No. 1 to 6 :-

8] In short there is case of prosecution accused Gujarkhan was working with the complainant Momin Akbar Momin Babamiya prior to 15 to 20 years back. He left the job. Thereafter, he started beating to the people, given threatening and demanded extortion of money. Prior to five years back also accused Gujarkhan demanded extortion money but due to fear he did not made complaint. Prior to two years back, accused assaulted to his brother and complaint was given. On the day of incident, all accused persons came to his godown holding with sickle, knife, iron pipe and weapons. Two accused persons kept the sickle on the neck of Anwar and Jafar and taken in side. Four accused persons assaulted to the complainant and robbed Rs.1,75,000/-. Accused Amar tried to assault on his stomach by knife but it was missed and it was stuck on his thigh. Accused Shahrukh and another persons assaulted with the handle of sickle and hands on his back and head and tried to kill him. At that time, accused Amar threatened if he will not pay Rs.1 Crore, he will kill him and his family. Since from one month of the incident accused Gujarkhan demanded extortion money towards him. Accused threatened to his brother that if they will file the complaint, they will kill them and his statement was recorded in the hospital.

9] To prove the case prosecution has examined complainant PW-1 Momin Akbar. He testified as per the contents mentioned in the

complaint. During the cross-examination, he admitted that Shaikh Jafar came to his shop along with goods. After 15 minutes accused arrived there. He had seen the accused from the distance of 30 to 40 feet. He did not tried to ran away from the spot nor he tried to shout. Witnesses Anwar and Jafar never ran away. Anwar and Jafar did not came to rescue him. No one came to separate the quarrel. He also testified the incident was going on about 30 to 45 minutes. It was on the soil land. At the time of incident, he was having mobile. He further testified his daily business was about Rs.2,000/- to Rs.5,000/-. He has account with axis bank and has yearly average income of Rs.3,00,000/-. He further testified that accused assaulted him with the blunt side of the knife. He did not tried to obstruct to the accused. He leave the shop after half hour when accused left premises. When the accused left premises, then thereafter he did not made call to the police station. After incident he has been taken treatment in the civil hospital, Beed. He admitted that there was so many hospitals in the vicinity of Balepir. He came to civil hospital at about 04.00 pm. He admitted that during the period of 12.00 pm to 04.00 pm, he did not feel to go to the hospital. He denied that due to scrap business such type of injuries are possible. During the cross-examination, again he admitted that the transaction money never came in his account on daily basis. He admitted that when he had seen the accused then he feel accused will beat him. Prior to incident there was no enmity between the accused. He also admitted that he did not narrated the name of the accused persons to the doctor. He never made any complaint in the police station regarding extortion by Gujarkhan. He admitted that before this incident there was no any quarrel between himself and his brother with the Gujarkhan. He admitted that one police chowky was in his house for some days. He

further admitted that when he went to the shop of his brother, his brother also never made call to the police. He further admitted that police did not prepared any separate panchnama by showing weapons to him. He further admitted that he never disclosed the name of unknown persons to the police while giving the statement. He never mentioned in the complaint Shaikh Mazhar and Avez Kazi kept the sickle on the neck of Anwar and Jafar and take them in side. He further admitted that from the day of incident till the date of deposition, he never met with the accused Mazhar. He further admitted that he knows to the accused Awez Kazi from his childhood. He testified that on 08.10.2019, he identified the accused Shaikh Ubed, Avez Kazi and Shaikh Imran in the police station. He further testified that on 08.10.2019 accused Amar disclosed the name of other accused persons. He further testified Avez Kazi is the relative of accused Gujarkhan.

10] Prosecution has also examined PW-2 Sachin Tambare, who is panch of memorandum panchanama and seizure panchnama. He testified that one accused was present in the police station. He disclosed that he had kept the weapons in the Talegaon jurisdiction and police prepared panchnama. Then accused, police and panch went to the village Talegaon. Accused had kept the weapons out side of the godown. Police seized it. During the cross-examination, he testified that said weapons were kept in open space but he could not stated on which directions the weapons were kept.

11] Prosecution has examined PW-3 Mahadeo Khande, who is

also panch of spot panchanama. He testified that he went to the spot. Thereafter, he went to the civil hospital ward No.5. Police seized the cloths of the complainant.

12] Prosecution has examined PW-4 Shaikh Jafar, who is alleged eye witness. He testified that on 02.08.2019 at about 11.00 am, he went to the shop of complainant Momin Akbar with the scrap. At that time, Shaikh Anwar was also present. 8 to 9 persons came there. They were holding with the knife and pipes. They have demanded Rs.1 Crore as extortion money. Accused take them a side by keeping the sickle on them. When they assaulted to the complainant they tried to snatch money. Complainant restrained them. One of the accused tried to stab in the stomach of the complainant and it was struck on thigh. One of the accused was trying to take money from him but he obstructed to him. One of the accused assaulted him with the pipe on his hand and legs and removed Rs.8000/-. They have taken money from the complainant and threatened if he will not pay Rs.1 Crore then they will kill them. Then he himself and Anwar taken to the complainant at the shop of Kausarbai. He also testified that accused No.8 kept the knife on his body. During the cross-examination he admitted that he has good relations with the complainant. No identification parade was taken in his presence. Police did not shown to him weapons from which weapon accused assaulted him. He did not made any complaint to the police regarding the beating to him. He never get the money of Rs.8000/-. He never went to the hospital for his injury. During cross-examination, he also testified that before giving to the statement to the police, he did not narrated the incident to any one. After the incident he has no occasion to see the accused person. He

never stated to the police he will identify the accused.

13] Prosecution has examined medical officer PW-5 Sudhir Raut. He testified that he has examined Momin Akbar Babamiya and found contusion over left shoulder joint, abrasion over right thigh and contusion over left infra-scapular region. During cross-examination he admitted that he did not find any bleeding injury. Also injury No. 3 is not possible during the accident. He did not mention the specific spot in the injury certificate.

14] PW-6 Revannath Dudhane is the carrier of the samples. He testified that he deposited the samples in the Forensic Science Laboratory.

15] Prosecution has examined PW-7 Momin Kausar Babamiya, who is the brother of the complainant. He testified that prior to the incident accused Gujarkhan and other 2-3 persons threatened him and his brother and demanded the extortion but they did not file any complaint. He further testified that his brother stated to him on 05.08.2019, while complainant was present in his shop at that time all the accused persons came there holding the knife, sickles and iron pipe and assaulted his brother and robbed Rs.1,75,000/-. Other two persons also assaulted them and they threatened if he will not pay Rs. 1 Crore within a week then they will kill him and his family. When he was in hospital at that time accused Shahrukh threatened on mobile phone. If the complaint is made

then they will kill them by shooting with revolver. During the cross-examination, he admitted when his brother was arrived in his shop thereafter one and half hours they went to the police chowky. Then he taken his brother in the hospital. Till recording his statement he was in Beed. Till recording the statement he did not given the information to any other about the incident. He further testified in cross-examination when his brother came to him then immediately he did not made the call to the police.

16] PW-8 Yogesh Devidas Ubale who is the investigating officer testified that during the investigation accused Shaikh Amar given the statement that he is ready to produce the weapons thereafter panchnama was prepared. He further testified that accused assaulted to the complainant and snatched amount of Rs.1,75,000/-. During the cross-examination, he specifically admitted that he did not made the inquiry how the amount of Rs.1,75,000/- was with the complainant. He further admitted that at the time of registration of FIR, no names of all the accused were mentioned. He admitted that no amount was received from any of the accused. He further admitted that in the arrest panchnama the spot of arrest is not mentioned.

17] PW-9 Pradip Datta Dolare, another investigating officer testified that he prepared the spot panchnama, seized the clothes of the complainant and obtained the blood samples of the complainant. During the cross-examination, he admitted that he never given any letter to obtain CDR of the accused and witnesses. He further admitted that he never

obtained PTR or licence of the shop. He never made enquiry how the amount of Rs.1,75,000/- came to the complainant.

18] Learned APP submitted that all the witnesses are supported to each other and they have testified all the accused persons assaulted to the complainant with the knife, sickle, pipes and hand blows and snatched Rs.1,75,000/- therefore, prosecution proved the case against accused and they may be convicted.

19] Learned advocate for the accused submitted that there is no independent eye witness examined by the prosecution. Witnesses who were so called witnesses are present on the spot are the interested witnesses. The injuries which are mentioned in the injury certificate are the simple injuries. Said injuries are contusion and abrasion and such type of injuries are possible in the business of scrap.

20] Advocate for the accused further submitted that there is no specific allegations who has taken the amount of Rs.1,75,000/-. No evidence is collected by the police how amount of Rs.1,75,000/- was in the possession of the complainant. Recovery of alleged weapons from accused No.1 is doubtful. The incident was taken place on 02.08.2019 while weapons were seized on 08.10.2019 when the weapons were lying in open space near the godown therefore, said recovery is doubtful. Panch witness also testified that weapons were lying in open condition. He never mentioned the name of the accused from whom the weapons

were seized. Witness PW-4 Jafar is the eye witness but though he was sustained injury he never went to the hospital. He never made complaint to the police regarding beating by the accused. He testified that accused tried to snatch money and they snatched Rs.8,000/-. This fact is not disclosed by the complainant and no recovery is made regarding the said amount. In the complaint name of five accused is mentioned. There is no specific averment who was holding weapons. There is no any head injury. There is no recovery of amount. There is delay of 12 hours to file the complaint. Identification parade is not conducted. There is no complaint about the extortion. No weapon was shown to the doctor to give opinion regarding the injury.

21] Learned advocate for accused No.5, 6 and 9 argued that on 08.10.2019 accused were in jail therefore, there is no question to identify the accused in the police station.

22] Learned Advocate for accused No.8 argued that in the complaint no name of accused No.8 is mentioned. During the cross-examination complainant admitted complainant is knows to the accused No.8 since his childhood. His name was not mentioned in the complaint, therefore, involvement of accused No.8 is doubtful. Accused No.8 was arrested on 18.10.2019. Therefore, his presence in the police station on 08.10.2019 is not possible. Therefore, submitted that accused may be acquitted.

23] Learned advocate for the accused No. 2, 4 and 7 relied upon case law of **2019 ALL MR (Cri) 1464, State of Maharashtra Vs. Rajendrasingh Bahadursing Tak and others, of the Hon'ble Bombay High Court, Bench at Nagpur**, In the said case law it is held that the incident of dacoity might have been taken place. However, prosecution has failed to establish the presence of the accused at the place of the crime. Therefore, trial Judge is rightly assessed the findings of acquittal.

24] He further relied upon case **2019 ALL MR (Cri) 1896, Munir Rustum Shah Vs. State of Maharashtra, Hon'ble Bombay High Court bench at Aurangabad**. It is held that type of knife recovered is easily available in open market. There is no cogent, clinching and sufficient evident showing involvement of the accused persons therefore, accused are entitled for benefit of doubt.

25] Learned advocate for the accused No. 5,6 and 9 relied upon case law of **Hon'ble Supreme Court, Govind Mandavi Vs. State of Chattisgarh, Criminal Appeal No.--of 2025 (Arising out of SLP (Cri.) No. 13533 of 2025 decided on 08th December, 2025**, in the said case law it is observed that name of the accused in the FIR mentioned on the basis of information provided by the witnesses and therefore, there is impeaches credibility of the prosecution's case.

I have gone through all the case laws then it is found that facts and circumstances of the case law and case in hand are different. Therefore, said case laws are not so much useful in this case, therefore, cannot be considered.

26] I have perused all the record and evidence. Then first of all there is case of the complainant prior to incident also accused threatened to him for extortion but he did not made any complaint. Why such complaint is not given nothing is come on record. Only on the ground due to fear of the accused he did not made complaint cannot be considered.

27] In cross-examination it is come on record he had seen the accused from 30 to 40 feet. Accused were holding with the weapons then also he did not try to ran away. Nor tried to make shout. Witnesses Jafar and Anwar never ran away. Anwar and Jafar never come to rescue him. No one come to rescue him. He further testified incident was going on at about 30 to 45 minutes. At the time of incident he was having the mobile.

On this point advocate for the accused argued that when incident was carried near about 30 to 45 minutes then complainant might have been sustained several injuries on his body when 8-9 persons assaulted to him. If 8-9 persons assaulted to the complainant with deadly weapon then there may be minimum 9 serious injuries are possible but only 3 simple injuries are on the body of the complainant. Therefore, submitted that version regarding accused persons assaulted to the complainant near about 30-45 minutes with the pipes, knife, hands and blows cannot be reliable.

28] It is also come on record, complainant testified that amount of Rs.1,75,000/- was taken away by the accused persons, but specifically it is not come on record which accused has snatched amount of Rs.1,75,000/-. He further deposed accused Amar tried to assault him

with the knife in his stomach but it was stuck on his thigh but if we perused the injury certificate then it is found that there is only abrasion injury on the thigh and said injury with the hard and blunt and it is simple injury. Considering this injury we cannot considered that said injury possible with the knife therefore, version regarding accused Amar assaulted the complainant with the knife on this thigh is doubtful.

29] PW-4 Shaikh Jafar is the alleged eye witness, but he never mentioned the name of any of the accused. Only he vaguely stated that 8-9 persons came there holding with the knife and pipe and assaulted to the complainant. They tried to snatch his money. He further testified that one of the accused assaulted him on his hand and legs with the pipe and taken away Rs.8,000/-. For that purpose, this witness never went to the police station, never went to the hospital. He never received any amount Rs.8,000/-. Therefore, there creates doubts regarding presence of this witness on the spot of incident. Another alleged eye witness Anwar is not examined by the protection in this case. Winters Jafar specifically admitted that no identification parade is conducted by the police in his presence.

30] It is also come on record after the incident the complainant never made call to the police though he was having mobile at the time of incident and this fact admitted by the complainant in his cross-examination. It is also come on record incident was taken place about 10 to 11 am. After the incident till 04.00 pm, complainant did not feel went to the hospital. It is also come on record one police chowky was in his

house for sometime. It means he has good relations with the police. Then also he did not made call the police regarding this incident. During the cross-examination, he stated that accused assaulted him from the blunt side of the knife. Then question is arise really accused want to kill the complainant then they might have assaulted with the knife with the sharp side but this fact is not come on record. Therefore, version regarding the accused assaulted complainant with the knife is doubtful. In cross-examination, he never stated the names of the assailants to the doctor. It is also come on record though he went to the shop of his brother then also his brother never made call to the police. He never stated name of unknown persons to the police.

31] PW-7 Momin Kausar, is the brother of the complainant. He is not eye witness but after the incident, the complainant went to him. Though complainant went to him but he never made a call to the police and near about one and half hours he never taken his brother to the police or hospital.

32] It is also come on record, investigating officer never made enquiry how the amount of Rs.1,75,000/- was having with the complainant at the time of incident. It is further come on record at the time of FIR, name all accused were not mentioned. There is no recovery of money from the accused persons. It is not mentioned from which spot accused were arrested. It means the investigating officer never carried the investigation properly. Another investigating officer PW-9 Dolare never obtained the CDR of the accused, complainant and witnesses. He also

never made enquiry how the amount of Rs.1,75,000/- was having with the complainant. It means the investigation which is conducted by the investigating officer is doubtful and is not proper.

33] Considering the injury certificate on record, the complainant has sustained only abrasion and contusion injury. Said injuries are simple injuries. There was no bleeding injury on the body of the complainant though it is come on record 8-9 persons assaulted to the complainant but no such type of injuries are found on the body of the complainant. Therefore, 8-9 accused persons assaulted to the complainant is doubtful. Since there is no record how amount of Rs.1,75,000/- was having with the complainant at the time of incident therefore, the accused has taken away Rs.1,75,000/- from the complainant is doubtful. PW-4 Jafar never stated that accused has taken away Rs.1,75,000/- from the complainant but he developed story that amount of Rs.8,000/- was taken away by the accused from him. Another eye witness Shaikh Anwar is not examined in this case. No identification parade is taken by the investigating officer.

34] Considering these controversies there creates doubt that the accused persons came to the complainant on 02.08.2019 on his godown, they were holding the knife, sickle and pipe and assaulted with him with the knife and taken away of Rs.1,75,000/-, threatened to him to pay extortion money of Rs.1 Crore otherwise they will him and his family is doubtful. There is delay to lodge the complaint. There is delay to went to the police station and hospital. Considering all these reasons story of prosecution is doubtful. Prosecution miserably failed to prove the case

against all the accused beyond reasonable doubt and benefit is doubt is goes to all accused persons. In such circumstances, I answered points No.1 to 5 accordingly.

35] Considering above reasons and findings accused are entitled for acquittal from the offences punishable under sections 397, 386, 307, 506 of the Indian Penal Code, section 25 of Arms Act. Hence, I pass following order.

ORDER

- 1] Accused No.1) Shaikh Amar Shaikh Akbar, Age-30 years, R/o. Indraprasth Colony, Balepeer, Beed, No.2) Sayyed Shahrukh Sayyed Noor, Age-23 years, R/o. Bharat Bhushan Nagar, Balepeer, Beed, No.3) Anwarkhan alias Gujarkhan Mirzakhan Age-38 years, R/o. Indraprasth Colony, Gulshan Nagar Balepeer, Beed, 4) Sayyed Naser Sayyed Noor, Age- 30 years, R/o. Bharat Bhushan Nagar, Balepeer, Beed, 5) Shaikh Shahabaj Shaikh Kalim, Age-31 years, R/o. Rosahanpura Beed, 6) Shaikh Ubed Shaikh Babu, Age- 28 years, R/o. Bangarnala Bharat Bhushan Nagar, Beed now at Aurangabad, 7) Shaikh Imran alias Kala Shaikh Rashid, Age- 30 years, R/o. Kazinagar, Balepir, Beed, 8) Awej Kazi Mujid Kazi, Age- 26 years, R/o. Kazinagar, Balepir, Beed and 9) Shaikh Mazhar alias Hafmurder Shaikh Rahim, Age- 38 years, R/o. Bangarnala, Bharat Bhushan Nagar Balepir, Beed are acquitted under section 235(1) of the Code of Criminal Procedure from the charges levelled against them for the offences punishable under sections 397, 386, 307, 506 of the Indian Penal Code and section 4 punishable under section 25 of Arms Act.
- 2] The bail bonds of the accused stand cancelled and sureties discharged.

- 3] Seized muddemal one knife, one sickle and one iron rod and clothes being worthles be destroyed after period is over.
- 4] Accused to furnish PB and SB of Rs.25,000/- each as per section 437-A of the Cr.P.C.

(Dictated and pronounced in the open Court)

Date : 24.03.2026

(**S. S. Ghorpade**)
Addl. Sessions Judge,
BEED.

:: CERTIFICATE ::

" I Affirm that the content of this PDF file are word to word as per original Judgment/Order "

| | | |
|---------------------|----|------------|
| Dictated on | :- | 24.03.2026 |
| Transcribed on | :- | 24.03.2026 |
| Checked & Signed on | :- | 25.03.2026 |

(N.E.Shaikh)
Stenographer Gr-I
Adhoc District Court – 1 & Addl.
Sessions Court, Beed.